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EXHIBIT 95.

1                   IN THE UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF CALIFORNIA  
3                   SAN FRANCISCO DIVISION  
4

5   ANN OTSUKA, an individual;       )  
6   JANIS KEEFE, an individual,     )  
7   CORINNE PHIPPS, an               )  
8   individual; and RENEE DAVIS,     )  
9   an individual; individually       )  
10   and on behalf of all others      )  
11   similarly situated,               )  
12                   Plaintiffs,       )

13                   - vs-                                       )   No. C-07-02780-SI  
14    )

15   POLO RALPH LAUREN CORPORATION;) )  
16   a Delaware Corporation; POLO    )  
17   RETAIL, LLC., a Delaware        )  
18   Corporation, POLO RALPH LAUREN) )  
19   CORPORATION, a Delaware         )  
20   Corporation, doing business in) )  
21   California as POLO RETAIL        )  
22   CORP; FASHIONS OUTLET OF         )  
23   AMERICA, INC., a Delaware        )  
24   Corporation,                     )  
25                   Defendants.       )

26                   The deposition of HARVEY RESNICK, called  
27   by the Plaintiffs for examination, pursuant to  
28   subpoena and pursuant to the Federal Rules of  
29   Civil Procedure for the United States District  
30   Courts pertaining to the taking of depositions,  
31   taken before Cynthia J. Conforti, Certified  
32   Shorthand Reporter, at Suite 2500, 77 West Wacker  
33   Drive, Chicago, Illinois, commencing at the hour  
34   of 10:09 a.m. on the 23rd day of April, A.D.,  
35   2008.

Page 1

**Golden Gate Reporting**

<p>1 anything they sold beyond that would equate to 2 additional income rather than it being required to 3 cover your sales first, and if you had a shortfall 4 then that was now being charged against you for 5 the next pay period, so I don't think they really 6 understood that.</p> <p>7 Q. Were there on occasion meetings for all 8 sales associates?</p> <p>9 A. Sure. There were daily meetings before 10 the store opened that included sales associates, 11 whoever it was present at the morning. There was 12 a morning meeting almost every day before the 13 store opened.</p> <p>14 Q. And were there also store meetings with 15 sales associates scheduled on some Saturdays?</p> <p>16 A. Yes.</p> <p>17 Q. And were those meetings mandatory for 18 sales associates to attend?</p> <p>19 A. Sometimes they were. There were meetings 20 of that type for product knowledge purposes or 21 something of that nature, something that it was 22 necessary to ask everybody to be present at one 23 meeting because it couldn't be repeated, and that 24 would happen sometimes on a Saturday.</p> <p>25 Q. In any of the meetings that you attended</p>	<p>1 If you take your time and go through this, 2 my first question is going to be whether you 3 recall seeing this handbook before today.</p> <p>4 A. I remember seeing this. Want me to go 5 through everything?</p> <p>6 Q. No, no. I'm going to ask you some 7 specific questions about some of the materials in 8 this handbook.</p> <p>9 Would you take a look at page four. It's 10 Polo Bates 732. Performance Improvement Coaching 11 is the title. I think it's the next page.</p> <p>12 A. Okay.</p> <p>13 Q. Do you recall the concept of performance 14 improvement coaching?</p> <p>15 A. Yes.</p> <p>16 Q. And one of the things that it talks about 17 in this section is providing guidance to sales 18 associates.</p> <p>19 A. Through the one-on-one program?</p> <p>20 Q. The one-on-one program where you met with 21 a sales associate, was that part of the 22 performance improvement coaching process?</p> <p>23 A. Yes, I believe that's correct. I recall 24 that.</p> <p>25 Q. And do you know whether this manual was</p>
Page 66	Page 68
<p>1 with either the morning meetings or a Saturday 2 meeting, did the issue of arrears ever come up?</p> <p>3 A. I don't remember.</p> <p>4 Q. During any of those meetings that you 5 attended did the issue of loss prevention 6 inspection wait times ever come up?</p> <p>7 A. It's entirely possible, but, again, I 8 don't have a specific recollection of the 9 conversations.</p> <p>10 Q. Any of those meetings that you attended do 11 you recall any discussion relating to premium 12 overtime compensation?</p> <p>13 A. In one of those meetings?</p> <p>14 Q. Yes.</p> <p>15 A. No, I don't.</p> <p>16 Q. In any of the meetings that you attended 17 with sales associates, the morning meetings or the 18 Saturday meeting, did anyone ever raise an issue 19 relating to taking or not taking rest breaks?</p> <p>20 A. I don't have a recollection of that.</p> <p>21 Q. I'm going to show you a document that we 22 previously marked as Exhibit 8. It's entitled 23 Polo Ralph Lauren Polo Retail Corporation Sales 24 Associate Compensation and is dated April 2004, 25 and it begins Polo Bates number 728.</p>	<p>1 provided to all sales associates?</p> <p>2 A. I believe it was.</p> <p>3 Q. Would you take a look at page six. The 4 title is Plan Administration. There's a section 5 entitled Overtime. The second paragraph reads 6 quote:</p> <p>7 Sales associates and senior sales 8 associates are not eligible to receive a premium 9 overtime compensation rate.</p> <p>10 However, a sales commission reconciliation 11 will be performed at the close of each fiscal year 12 to ensure that each associate is compliant with 13 federal labor guidelines stipulating that the 14 majority of their pay must be in the form of 15 commission.</p> <p>16 If an associate is found to be overtime 17 eligible at that time, then the appropriate amount 18 of overtime compensation would be paid to that 19 associate, closed quote.</p> <p>20 Do you recall ever having a discussion 21 with anyone about what Polo refers to as a sales 22 commission reconciliation?</p> <p>23 A. No, I don't.</p> <p>24 Q. To your knowledge were sales associates 25 ever paid a premium overtime rate on a once-a-year</p>
Page 67	Page 69

18 (Pages 66 to 69)

certcert

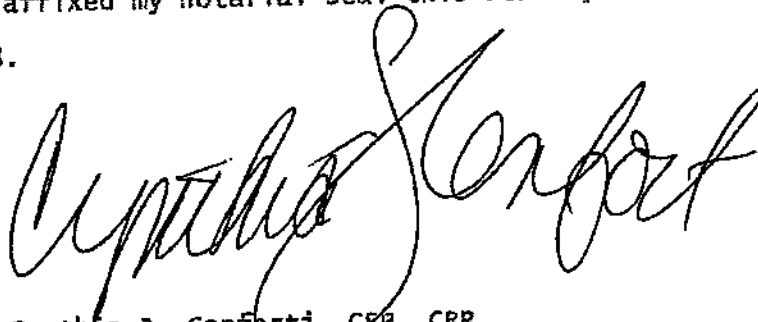
1 I further certify that the signature to the  
2 foregoing deposition was not waived by counsel for  
3 the respective parties.

4 I further certify that the taking of this  
5 deposition was pursuant to subpoena, and that  
6 there were present at the deposition the attorneys  
7 hereinbefore mentioned.

8 I further certify that I am not counsel for  
9 nor in any way related to the parties to this  
10 suit, nor am I in any way interested in the  
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my  
13 hand and affixed my notarial seal this 7th day of  
14 May, 2008.

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A large, stylized handwritten signature in black ink, reading "Cynthia J. Conforti". The signature is written over the notary's name and title.

Cynthia J. Conforti, CSR, CRR

Notary Public, Cook County, Illinois

CSR License No. 084-003064

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EXHIBIT 96.

**Golden Gate Reporting**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION  
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI  
6 KEEFE, an individual; CORINNE  
7 PHIPPS, an individual; and  
8 JUSTIN KISER, an individual;  
9 individually and on behalf of  
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;  
14 a Delaware Corporation; POLO  
15 RETAIL, LLC, a Delaware Corporation;  
16 POLO RALPH LAUREN CORPORATION, a  
17 Delaware Corporation, doing business  
18 in California as POLO RETAIL CORP;  
19 FASHIONS OUTLET OF AMERICA, INC., a  
20 Delaware Corporation and DOES 1-500,  
21 inclusive,

22 Defendants.  
23 /

24 DEPOSITION OF KIM LEE BABKA  
25

26 DATE: March 7, 2008

27 TIME: 10:03 a.m.

28 LOCATION: Greenberg Traurig  
29 1900 University Avenue  
30 Fifth Floor  
31 East Palo Alto, California

32 REPORTED BY: Mary E. Garland  
33 Certified Shorthand Reporter  
34 License Number 4721  
35

Page 1

1 the managers.  
 2 Q. Do the loss prevention personnel at the Beverly  
 3 Hills store have a specific office they work out of?  
 4 A. There is a small office, yes.  
 5 Q. Have any of the other stores in California, the  
 6 full-price retail stores, ever had in-store loss  
 7 prevention personnel assigned to them?  
 8 A. Yes.  
 9 Q. And which stores were those?  
 10 A. San Francisco and -- Palo Alto and San  
 11 Francisco had a shared person.  
 12 Q. Any other stores with loss prevention personnel  
 13 assigned to the store?  
 14 A. No.  
 15 Q. You indicated earlier, I believe, that only on  
 16 rare occasion have you actually interviewed sales  
 17 associates for positions in the stores in California; is  
 18 that correct?  
 19 A. Correct.  
 20 Q. Your involvement in the hiring process, is that  
 21 more focused on management-level personnel?  
 22 A. Yes.  
 23 Q. And do you, either alone or in conjunction with  
 24 others, make hiring decisions as to general managers for  
 25 the full-price retail stores in California?

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1 A. It would be a very rough estimate. Twelve,  
 2 very rough estimate. Again, I'd have to see a roster,  
 3 and establish dates and timelines.  
 4 Q. When a new manager is hired, whether from the  
 5 ranks of sales associates or from outside of the  
 6 company, are you involved in training those managers as  
 7 to Polo's policies and procedures?  
 8 A. Less directly involved with department  
 9 managers, and directly involved with general managers,  
 10 but certainly involvement.  
 11 Q. Do you have any materials that help guide you  
 12 through the training process for either department  
 13 managers or general managers?  
 14 A. There is an assimilation guide, and certainly  
 15 various materials on the retail web; but I'm not sure if  
 16 you're asking for a manual again or not.  
 17 Q. Well, we'll look at some of the --  
 18 A. Okay.  
 19 Q. We have a couple of the assimilation manuals.  
 20 And I'm wondering if there's anything other than the  
 21 assimilation manual that is kind of a guidebook for  
 22 training managers for Polo responsibilities?  
 23 A. Again, there are assimilation guides and  
 24 schedules, but an actual manual doesn't exist.  
 25 Q. During the process of training newly-hired

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1 A. Yes.  
 2 Q. And do you, either alone or in conjunction  
 3 with others, make the hiring decision with respect to  
 4 department or assistant managers?  
 5 A. Yes.  
 6 Q. Are you engaged in the process of interviewing  
 7 those potential managers?  
 8 A. In most cases, yes.  
 9 Q. This may be -- well, let me just ask the  
 10 question: Can you give me a percentage or number  
 11 estimate as to how many managers, say, within the last  
 12 year, were hired from within the company -- sales  
 13 associates being promoted, for example, to management  
 14 position -- versus bringing in managers who weren't  
 15 currently employed by Polo when they were hired as a  
 16 manager?  
 17 A. In the last year?  
 18 Q. Yes.  
 19 A. And just a manager, not the keyholder; correct?  
 20 Q. Correct.  
 21 A. Two to manager level, that I can recall.  
 22 Q. From sales associates?  
 23 A. Sales associate.  
 24 Q. And how many managers were hired, in the last  
 25 year, that came from without the company?

Page 47

1 general managers, do you review with them the Polo  
 2 employee handbook?  
 3 A. That is typically done by human resources.  
 4 Q. Have you had an opportunity to sit down with  
 5 the general manager and go through the employee handbook  
 6 with them to point out important policies?  
 7 A. In most cases, yes.  
 8 Q. Have you ever been engaged in an interview  
 9 process with a sales associates during which wages, and  
 10 commissions, and benefits were discussed with the  
 11 applicant?  
 12 A. Have I ever been?  
 13 Q. Yes.  
 14 A. Yes.  
 15 Q. Were you ever involved in the interview process  
 16 of a sales associate where the Arrears program was  
 17 discussed with the sales associate?  
 18 A. Not that I recall.  
 19 (Brief recess taken.)  
 20 Q. BY MR. KITCHIN: I want to talk about  
 21 compensation systems for sales associates.  
 22 First, I want to talk about the Burlingame  
 23 store. How are sales associates today compensated in  
 24 the Burlingame store?  
 25 A. They are on an hourly plus commission.

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13 (Pages 46 to 49)



<p>1 Q. If a sales associate in the Burlingame store 2 works more than eight hours in a day, are they paid 3 premium overtime for that time in excess of eight hours 4 in a day?</p> <p>5 A. Yes.</p> <p>6 Q. And if a sales associate in the Burlingame 7 store works a combination of hours that adds up to more 8 than 40 in one week, are they paid premium overtime 9 compensation for the time over 40 hours?</p> <p>10 A. Well, it should be based on per day. I'm not 11 sure -- maybe I'm not understanding your question.</p> <p>12 Q. Has the compensation system in Burlingame been 13 hourly plus commission since 2002?</p> <p>14 A. I don't recall if that was the date. I'd have 15 to look at the grid.</p> <p>16 Q. Do you have an estimate as to when Burlingame 17 sales associates first started to be compensated on an 18 hourly plus commission basis?</p> <p>19 A. Again, I'd have to look at the grid.</p> <p>20 Q. Is it a recent change, to the best of your 21 memory, or do you think it's --</p> <p>22 A. Not too recent.</p> <p>23 Q. Has it been around for more than two years, as 24 hourly plus commission?</p> <p>25 A. I believe so.</p> <p style="text-align: right;">Page 50</p>	<p>1 stores in California, excluding those stores that opened 2 more recently, since at least 2002?</p> <p>3 A. Again, I'd have to look at the time, the exact, 4 you know, month and year; but for some time, yes.</p> <p>5 Q. Were any of the other stores, other than the 6 Burlingame store, in California ever on an hourly plus 7 commission basis, to your knowledge?</p> <p>8 A. Again, I'd have to go back and look at what -- 9 1999, 2000, I'd have to look at what that was at the 10 time.</p> <p>11 Q. At least since 2002, have sales associates in 12 the full-price retail stores, other than the Burlingame 13 store, been paid on a draw versus commission basis?</p> <p>14 A. To my knowledge, yes.</p> <p>15 Q. How does the hourly plus commission system work 16 at the Burlingame store?</p> <p>17 A. I'm not sure what you mean by "work."</p> <p>18 Q. How does it operate? How are sales associates 19 paid under that system?</p> <p>20 A. It's an hourly plus a commission. So it could 21 be, you know, the 10.15 plus three percent, plus four 22 percent, plus five percent, depending on the tier of 23 sales that they fall into. But, again, I would have to 24 look at the grid just to refer to the exact.</p> <p>25 Q. Does the hourly rate paid to sales associates</p> <p style="text-align: right;">Page 50</p>
<p>1 Q. We'll look at some documents that may help to 2 refresh your recollection.</p> <p>3 If sales associates in the Burlingame store 4 work more than eight hours in a specific day, you 5 indicated that they're paid premium overtime 6 compensation. Is that premium overtime compensation at 7 1.5 times their hourly rate?</p> <p>8 A. It should be.</p> <p>9 Q. And if a sales associate in the Burlingame 10 store works more than eight hours, during a specific pay 11 period, in one day, is that sales associate paid premium 12 overtime compensation in the paycheck for that two-week 13 period that just passed?</p> <p>14 A. Yes.</p> <p>15 Q. So sales associates in the Burlingame store 16 aren't paid at the end of the year or the end of the 17 fiscal year any overtime compensation that they have 18 earned; is that correct?</p> <p>19 A. Not to my knowledge.</p> <p>20 Q. Are all of the other stores, full-price retail 21 stores in California currently on what Polo calls a draw 22 versus commission system?</p> <p>23 A. Yes. A base against commission.</p> <p>24 Q. Base against commission?</p> <p>25 And has that system been in place in all of the</p> <p style="text-align: right;">Page 51</p>	<p>1 in the Burlingame store vary among sales associates at 2 this time?</p> <p>3 A. I'd have to look to see if there's variation.</p> <p>4 Q. You know that the commission percentage varies 5 among sales associates based on their performance, and 6 longevity, and so forth; correct?</p> <p>7 A. Performance, yes.</p> <p>8 Q. Performance. So you don't have to be there 9 longer than someone else to earn a higher commission, 10 you have to sell more to earn that higher commission; is 11 that correct?</p> <p>12 A. That's how it's laid out now, yes.</p> <p>13 Q. How does the system that you identified as draw 14 versus commission currently work in the other full-price 15 retail stores, other than the Burlingame store?</p> <p>16 A. You mean how is the pay or -- I'm not sure what 17 you're --</p> <p>18 Q. Let me ask it this way: Could you describe 19 what Polo means by a "draw versus commission system"?</p> <p>20 A. Right. It's an hourly against commissions 21 earned. So the hourly is paid, no matter what, for the 22 hours that are worked; and then, again, any amount that 23 goes over covering that draw in commission is paid to 24 them, as well.</p> <p>25 Q. The hourly rate paid to sales associates in the</p> <p style="text-align: right;">Page 53</p>



## 1 CERTIFICATION OF DEPOSITION OFFICER

2  
3 I, MARY E. GARLAND, duly authorized to administer  
4 oaths pursuant to Section 2093(b) of the California Code  
5 of Civil Procedure, do hereby certify that the witness  
6 in the foregoing deposition was duly sworn by me to  
7 testify to the truth, the whole truth and nothing but  
8 the truth in the within-entitled cause; that said  
9 deposition was taken at the time and place therein  
10 stated; that the testimony of said witness was  
11 thereafter transcribed by means of computer-aided  
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and  
14 that the witness was given an opportunity to read and  
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or  
17 attorney for either or any of the parties in the  
18 foregoing deposition and caption named, nor in any way  
19 interested in the outcome of the cause named in said  
20 caption.

21 Executed March 19, 2008, at San Francisco,  
22 California.

23  
24   
25 MARY E. GARLAND, CSR 4721

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EXHIBIT 97.

**PRC Sales Associate Compensation Re-Structure  
April 2002**

***Background Information***

PRC implemented a base (hourly or salary) plus commission tiered compensation plan in October of 1999. The plan was designed to establish career paths for Sales Associates, be competitive, recognize individual achievements, and reward productivity. Many aspects of the plan were successful. It created the position of a Senior Seller, increased the number of \$1 Million sellers from 6 associates to 24 associates, and the average sales per associate increased from \$290,000 to \$500,000.

In response to the challenging retail environment and expense reduction initiatives last year, approximately 100 out of 550 sales associates positions were eliminated during staff reductions and all hourly sales associates were limited to a 37-hour workweek. Although these efforts were successful in providing actual dollar savings, the overall sales associate selling cost as a percentage to sales for '02 was 10.5%, significantly higher than the planned cost of the program.

***Analysis***

The weighting between the base and commission components of total earnings played a crucial role in driving total selling cost. As overall sales increased, the incremental selling cost decreased since base earnings were relatively constant and the commission percentage was low. However, as overall sales declined, as they did in '02, the fixed cost of base earnings caused the selling cost to increase.

Also, Senior Sales Associates who earned approximately 70% commission pay were more productive in this program than Sales Associates who earned approximately 60-70% base pay. Although the average sales per associate increased from \$290,000 to \$500,000, if Senior Sales Associates are excluded the average only went from \$290,000 to \$335,000. Thus, the higher the commission pay, the greater the motivation and productivity.

In order to meet our financial objectives, we were faced with the challenge of revising the plan while also maintaining the successful components, remaining competitive in the luxury retail market, and impacting all associates fairly.

***Base Against Commission Structure***

Ultimately we developed a new base against commission compensation structure. In this structure, the associate receives the higher of either their base pay or their commission pay, and there is no payback. Commissions are now paid every two weeks, one week in arrears, opposed to one commission check per month paid one month in arrears. Additionally, the plan's design exempts PRC from premium overtime pay requirements and 40-hour workweeks can be resumed.

Many aspects of the plan remained unchanged. Stores remain in groups based upon volume and seasonality, associates continue to be rewarded by productivity through the tiered sales structure, Senior Sales Associates are recognized in all groups and associates who reach the next compensation tier mid-year may receive an pay rate increase in the next commission period.

**CONFIDENTIAL**

POLO 00448

The selling cost is projected to be reduced to 9.6% which will remain steady given an overall sales increase or decrease. The average associate needs to increase their own sales 10% above last year to maintain their '02 earnings. This is a reasonable goal given that there is more business available for associates because of the staff reductions, and the 37-hour workweek restriction will be lifted.

***Implementation***

This plan was introduced to the sales associates on April 8<sup>th</sup> and became effective April 14<sup>th</sup>. Although we faced some emotional responses from a few sales associates, we have also received positive feedback from managers. Sales associates do not have such a large base to rely upon, are more focused on selling, being proactive and in providing exceptional customer service in order to develop their client base. Additionally, Sales Associates who increase their sales have a more immediate reward since the commission rates are higher than in the previous plan and they receive their commission payments much quicker.

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POLO 00449

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EXHIBIT 98.

**Golden Gate Reporting**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE, an individual; CORINNE PHIPPS, an individual; and JUSTIN KISER, an individual; individually and on behalf of all others similarly situated,

No. C-07-02780-SI

Plaintiffs,

vs.

POLO RALPH LAUREN CORPORATION; a Delaware Corporation; POLO RETAIL, LLC, a Delaware Corporation; POLO RALPH LAUREN CORPORATION, a Delaware Corporation, doing business in California as POLO RETAIL CORP; FASHIONS OUTLET OF AMERICA, INC., a Delaware Corporation and DOES 1-500, inclusive,

Defendants.

/

DEPOSITION OF KIM LEE BABKA

DATE: March 7, 2008

TIME: 10:03 a.m.

LOCATION: Greenberg Traurig  
1900 University Avenue  
Fifth Floor  
East Palo Alto, California

REPORTED BY: Mary E. Garland  
Certified Shorthand Reporter  
License Number 4721

Page 1

1 California stores, excluding Burlingame, does that  
 2 hourly rate vary among the stores?  
 3 A. Yes. Certainly, higher in San Francisco, based  
 4 on, you know, some recent changes or changes throughout.  
 5 If it's -- I actually recall it's always been higher in  
 6 San Francisco, or for some time.  
 7 Q. Other than the minimum wage requirement for San  
 8 Francisco County, do all of the other stores in  
 9 California have the same base hourly rate for sales  
 10 associates?  
 11 A. Base hourly -- for the hourly, yes.  
 12 Q. What is the hourly rate currently paid to San  
 13 Francisco sales associates?  
 14 A. I'm going to say 13.75.  
 15 Q. And do you know how that number was arrived at  
 16 by Polo?  
 17 A. Well, compensation arrived at it; so I don't  
 18 know all the specifics.  
 19 Q. Is the hourly rate in San Francisco based on  
 20 multiplying the minimum wage requirements for San  
 21 Francisco County times 1.5?  
 22 A. I recall that was the formula that was used  
 23 initially.  
 24 Q. And was that formula used in the other stores  
 25 in California, excluding Burlingame?

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1 A. As I understood, yes.  
 2 Q. So excluding Burlingame, the hourly rate paid  
 3 on the draw versus commission system was based on a  
 4 calculation of minimum wage times 1.5; is that correct?  
 5 MR. GOINES: Objection. Asked and answered.  
 6 Lack of foundation.  
 7 Q. BY MR. KITCHIN: Is that your understanding of  
 8 it?  
 9 A. That's what I recall, yes.  
 10 Q. Are sales associates in any of the full-price  
 11 retail stores in California, except Burlingame, paid  
 12 premium overtime compensation under any circumstance?  
 13 A. Can you ask the question again, please?  
 14 Q. Sure. You indicated that you thought the  
 15 hourly base for San Francisco was -- did you say 13.75?  
 16 A. As I recall, yes.  
 17 Q. If sales associates currently working in the  
 18 San Francisco store work more than eight hours a day on  
 19 any given day, to your knowledge, are they ever paid  
 20 13.75 times 1.5 per hour as a premium wage?  
 21 A. Well, no. They're commissioned associates. So  
 22 not to my knowledge.  
 23 Q. To your knowledge, have sales associates in any  
 24 stores, except for the Burlingame store, ever received  
 25 premium overtime compensation for working more than

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1 eight hours in a day or 40 hours in a week?  
 2 A. I can't answer the question "ever." You know,  
 3 I don't know if they've ever been paid.  
 4 Q. Typically, is it your understanding that sales  
 5 associates have typically not been paid 1.5 times their  
 6 base hourly rate for working more than eight hours in a  
 7 specific day?  
 8 A. That's my understanding, unless -- unless they  
 9 don't meet the 50-percent requirement of their  
 10 commissions earned.  
 11 Q. You just referred to the 50-percent  
 12 requirement. What do you mean by that?  
 13 A. Well, the understanding was that there would be  
 14 a look back if 50 percent of their earnings did not come  
 15 from their commission, for an annual look back.  
 16 Q. And when did you first learn that there would  
 17 be what's referred to as a look back?  
 18 A. I don't recall the exact year of the rollout of  
 19 the plan. I'd have to see the plan in front of me.  
 20 Q. And what was your understanding, when you first  
 21 learned about the 50-percent test as applied to the Polo  
 22 stores, as to when that look back would take place?  
 23 A. I just recall that there would be an annual  
 24 look back, is how it was referred to.  
 25 Q. Was the term "reconciliation" used in

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1 describing that look back?  
 2 A. Perhaps. I don't -- again, I'd have to see the  
 3 document or -- so I'd know.  
 4 Q. To your knowledge, has Polo ever performed that  
 5 look back to determine whether sales associates had met  
 6 what you referred to as the 50-percent test?  
 7 A. You know, I don't have any of that  
 8 documentation. That would be compensation.  
 9 Q. In your position as either district manager for  
 10 California and Hawaii or regional manager, did you, or  
 11 do you, review any data relating to compensation paid to  
 12 sales associates here in California?  
 13 A. There is a performance management report that  
 14 comes out from time to time, reviewing what they were  
 15 paid for versus what they've sold.  
 16 Q. And approximately how long has a performance  
 17 management report been utilized by Polo?  
 18 A. Again, I would have to guess if it's two years.  
 19 I -- it would be a guess.  
 20 Q. So it's not something that's happened in the  
 21 last year?  
 22 A. I recall seeing it for some time, but I can't  
 23 tell you exactly when it came out.  
 24 Q. And is there a specific document that is  
 25 referred to or titled "Performance Management Report"?

Page 57

15 (Pages 54 to 57)



1 CERTIFICATION OF DEPOSITION OFFICER  
2

3 I, MARY E. GARLAND, duly authorized to administer  
4 oaths pursuant to Section 2093(b) of the California Code  
5 of Civil Procedure, do hereby certify that the witness  
6 in the foregoing deposition was duly sworn by me to  
7 testify to the truth, the whole truth and nothing but  
8 the truth in the within-entitled cause; that said  
9 deposition was taken at the time and place therein  
10 stated; that the testimony of said witness was  
11 thereafter transcribed by means of computer-aided  
12 ~~transcription under my direction; that the foregoing is~~  
13 a full, complete and true record of said testimony; and  
14 that the witness was given an opportunity to read and  
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or  
17 attorney for either or any of the parties in the  
18 foregoing deposition and caption named, nor in any way  
19 interested in the outcome of the cause named in said  
20 caption.

21 Executed March 19, 2008, at San Francisco,  
22 California.

23   
24 MARY E. GARLAND, CSR 4721  
25

---

EXHIBIT 99.

1 WILLIAM J. GOINES (SBN 061290)  
JEREMY A. MEIER (SBN 139849)  
2 ALISHA M. LOUIE (SBN 240863)  
GREENBERG TRAURIG, LLP  
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10 Attorneys for Defendants Polo Ralph Lauren  
Corporation; Polo Retail, LLC; Polo Ralph Lauren  
11 Corporation, doing business in California as Polo  
Retail Corporation; and Fashions Outlet of  
12 America, Inc.  
13

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF SAN FRANCISCO  
16

17 ANN OTSUKA, an individual; JANIS  
KEEFE, an individual; CORINNE PHIPPS,  
18 an individual; and JUSTIN KISER, an  
individual; and on behalf of all other similarly  
19 situated,

Plaintiff(s),

20 v.  
21

22 POLO RALPH LAUREN CORPORATION,  
a Delaware Corporation; POLO RETAIL,  
LLC, a Delaware Corporation; POLO  
23 RALPH LAUREN CORPORATION, a  
Delaware Corporation, doing business in  
24 California as POLO RETAIL CORP;  
FASHIONS OUTLET OF AMERICA, INC.,  
25 a Delaware Corporation and DOES 1-500,  
inclusive,

26 Defendants(s).  
27  
28

Case No. CGC-06-452655

**DEFENDANTS POLO RALPH LAUREN  
CORPORATION DOING BUSINESS AS  
POLO RETAIL CORP.; POLO RETAIL,  
LLC; FASHIONS OUTLET OF AMERICA,  
INC.; AND POLO RETAIL  
CORPORATION'S RESPONSE TO  
PLAINTIFFS' FORM INTERROGATORIES -  
SET ONE**

Date Action Filed: May 30, 2006

both Plaintiffs stated intention to file a Second Amended Complaint and the existing stipulation between the parties to allow that filing.

Notwithstanding the foregoing objections, Defendants respond as follows: Plaintiffs were exempt commission employees, not entitled to overtime pursuant to California Industrial Welfare Commission ("IWC") Wage Orders Nos. Four (4) and Seven (7). Plaintiff Kiser comes to this action with "unclean hands" in that he conspired to perpetrate fraudulent customer credit return transactions as an employee of Defendants. Plaintiffs waived and/or ratified Defendants' alleged actions, including but not limited to wage, meal and rest breaks, and inspection procedures and processes.

Defendants did not cause harm to Plaintiffs. No actions taken by Defendants were done with oppression, fraud or malice so as to constitute facts sufficient for punitive damages. Defendants' actions were undertaken for fair and honest reasons, and were a just and proper exercise of management discretion. Defendants acted in good faith and were justified in taking actions by business necessities.

Plaintiffs were given the opportunity to have rest and/or meal breaks, as allowed by law. Any alleged violations of meal and rest break, if they did occur, were in fact so limited in time and scope as to not cause harm and are, as such, *de minimus* violations. Plaintiffs received all benefits to which they were entitled by virtue of their particular status and hours worked.

The issues about which Plaintiffs complain are individualized and insufficient to constitute a basis or bases to support a class of purported aggrieved persons. The persons with knowledge of these facts have been identified in detail in response to Plaintiffs' Special Interrogatories, Set No. One. The documents supporting denial or defenses have been produced to Plaintiffs in this litigation pursuant to Plaintiffs' Document Request and pursuant to meet and confer agreements and, therefore, the propounding parties are in possession of such documents.

**INTERROGATORY NO. 50.1:**

For each agreement alleged in the pleadings:

(a) identify all **DOCUMENTS** that are part of the agreement and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who have the **DOCUMENT**;

Otsuka, et al. v. Polo Ralph Lauren, et al.

Case No. CGC-06-452655

**PROOF OF SERVICE**

I, Andrea Beggs, declare that I am a citizen of the United States, over the age of eighteen years and not a party to the within action. I am an employee of GREENBERG TRAURIG, LLP, and my business address is 1900 University Avenue, Fifth Floor, East Palo Alto, CA 94303. On the date written below, I served the following document(s):

**DEFENDANTS POLO RALPH LAUREN CORPORATION DOING BUSINESS AS POLO RETAIL CORP.; POLO RETAIL, LLC; FASHIONS OUTLET OF AMERICA, INC.; AND POLO RETAIL CORPORATION'S RESPONSE TO PLAINTIFFS' FORM INTERROGATORIES -SET ONE**

by placing said document(s) listed above in a sealed envelope and served as detailed below:

Patrick R. Kitchin, Esq.  
Law Offices of Patrick R. Kitchin  
565 Commercial St., 4<sup>th</sup> Fl.  
San Francisco, CA 94111  
Tel: (415) 677-9058  
Fax: (415) 627-9076  
(Plaintiff's Co-Counsel)

Daniel Feder, Esq.  
Law Offices of Daniel L. Feder  
807 Montgomery Street  
San Francisco, CA 94133  
Tel: (415) 391-9476  
Fax: (415) 391-9432  
(Plaintiff's CO-Counsel)

with postage thereon fully prepaid, in the **UNITED STATES MAIL** at East Palo Alto, California.

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for mailing with United States Postal Service/Express Mail, Federal Express and other overnight mail services. The foregoing sealed envelope was placed for collection and mailing this date consistent with the ordinary business practice of my place of employment, so that it will be picked up this date with postage thereon fully prepaid at East Palo Alto, California, in the ordinary course of such business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 11, 2007 at East Palo Alto, California.

  
Andrea Beggs

---

EXHIBIT 100.

## FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE Pay	Com \$ Pd TOTAL PAY
<b>Plaintiff Corinne Mullen (Phipps) FY2005</b>												
802	190777	48748	7042004	39	2,658.14	8	212.65	81.73	12.75	1042.0575	956.89	0.00
802	190777	48748	7182004	89	12,321.87	8	985.75	81.67	12.75	1041.2925	1,041.29	0.00
802	190777	48748	8012004	81	7,004.63	8	560.37	79.74	12.75	1016.685	1,016.69	0.00
802	190777	48748	8152004	39	9,872.33	8	789.79	78.88	12.75	1005.72	1,005.72	0.00
802	190777	48748	8292004	26	3,344.45	8	267.56	70.21	12.75	895.1775	895.18	0.00
802	190777	48748	9122004	45	4,203.97	8	336.32	76.02	12.75	969.255	969.26	0.00
802	190777	48748	9252004	59	5,549.80	8	443.98	70.86	12.75	903.465	903.47	0.00
802	190777	48748	10092004	38	6,775.95	8	542.08	54.52	12.75	695.13	695.13	0.00
802	190777	48748	10232004									

## Missed Draw Target Every Pay Period

## FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE Pay	Com \$ Pd TOTAL PAY
<b>Plaintiff Janis Howay (Keefe) FY2005</b>												
802	55009	47229	5092004	58	3,229.99	8	256.40	79.02	12.75	1007.505	1,007.51	0.00
802	55009	47229	5232004	161	10,442.88	8	835.43	79.76	12.75	1016.94	1,016.94	0.00
802	55009	47229	6062004	190	12,856.03	8	1,028.64	79.68	12.75	1015.92	1,015.92	0.00
802	55009	47229	6202004	201	12,109.07	8	968.73	80.92	12.75	1031.73	1,031.73	0.00
802	55009	47229	7042004	173	9,572.13	8	765.77	78.78	12.75	1004.445	920.04	0.00
802	55009	47229	7182004	129	8,254.26	8	660.34	79.59	12.75	1014.7725	1,014.77	0.00
802	55009	47229	8012004	147	9,044.26	8	723.54	84.33	12.75	1075.2075	1,075.21	0.00
802	55009	47229	8142004	156	8,936.59	8	794.93	77.84	12.75	892.46	982.46	0.00
802	55009	47229	8292004	139	12,657.85	8	1,012.63	79.94	12.75	1017.96	1,017.96	0.00
802	55009	47229	9122004	121	16,503.75	8	1,320.30	81.99	12.75	1045.3725	1,045.37	0.00
802	55009	47229	9262004	62	9,565.75	8	765.26	66.62	12.75	849.405	849.41	0.00
802	55009	47229	10102004	66	12,212.63	8	977.01	77.74	12.75	891.185	991.19	0.00
802	55009	47229	10242004	15	4,331.48	8	346.52	35.53	12.75	453.0075	453.01	0.00
802	55009	47229	11072004	113	12,818.52	8	1,025.48	82.77	12.75	1055.3175	1,055.32	0.00
802	55009	47229	11212004	43	1,677.27	8	134.18	73.4	12.75	935.85	935.85	0.00
802	55009	47229	12052004	186	15,164.53	8	1,213.16	96.11	12.75	1225.4025	1,225.40	0.00
802	55009	47229	12192004	60	7,639.39	8	611.15	39.5	12.75	503.625	503.63	0.00

## Missed Draw Target 13 out of 18 Pay Periods

str	slsperson file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Base Pay	Com \$ Pd TOTAL PAY
802	198313	30024	1012006	-9	-1306	7	-91.42	6.83	12.75	87.0825	87.0825	0
802	198313	30024	1022005	3	527.10	7	36.90	19.2	12.75	244.8	124.57	0.00
802	198313	30024	1162005	8	927.68	7	64.94	13.92	12.75	177.48	177.48	0.00



802	198313	30024	1302005	2122005	5	1,367.98	7	95.76	9.94	12.75	126.735	0.00	126.74	0.00	126.74
802	198313	30024	2112007	2242007	4	2472	7	173.04	8.07	13.75	110.9625	0	110.96	62.08	\$173.04
802	198313	30024	2122006	2252006	5	1139.62	7	79.7734	7.85	12.75	100.0875	0	100.0875	0	100.0875
802	198313	30024	2132005	2282005	15	1,436.49	7	100.56	15.83	12.75	201.8325	0.00	201.83	0.00	201.83
802	198313	30024	2252007	3102007	4	2806	7	196.42	7.65	13.75	105.1675	0	105.19	91.23	\$196.42
802	198313	30024	2262006	3112006	1	85	7	5.95	7.83	12.75	99.8325	0	99.8325	0	99.8325
802	198313	30024	2272005	3122005	18	2,270.00	7	158.90	13.81	12.75	176.0775	0.00	176.08	0.00	176.08
802	198313	30024	3122007	3242007	17	4721	7	330.47	8.5	13.75	116.875	0	116.88	213.60	\$330.47
802	198313	30024	3122006	3252006	5	685	7	47.95	7.88	12.75	100.47	0	100.47	0	100.47
802	198313	30024	3132005	3262005	5	(196.00)	7	(13.02)	8.18	12.75	104.295	0.00	104.30	0.00	104.30
802	198313	30024	3262006	4082006	4	925	7	64.75	8.67	12.75	110.5425	0	110.5425	0	110.5425
802	198313	30024	3272005	4092005	4	366	7	25.62	10.27	12.75	130.9425	0	130.9425	0	130.9425
802	198313	30024	4082006	4222006	3	\$1,861.00	7	\$130.27	7.83	12.75	\$99.83	\$0.00	\$99.83	\$30.44	\$130.27
802	198313	30024	4102005	4232005	22	1476.5	7	\$127.75	17.91	12.75	228.3525	0	228.3525	\$37.86	\$127.75
802	198313	30024	4232006	5062006	10	\$1,825.00	7	\$232.155	15.82	12.75	201.705	0	201.705	0	201.705
802	198313	30024	4242005	5072005	17	3316.5	7	\$109.28	10.96	12.75	\$139.74	\$0.00	\$139.74	\$0.00	\$139.74
802	198313	30024	5072006	5202006	9	\$1,561.38	7	\$159.7015	7.98	12.75	101.745	0	101.745	0	101.745
802	198313	30024	5082005	5212005	9	2281.45	7	\$37.45	14.45	12.75	\$184.24	\$0.00	\$184.24	\$0.00	\$184.24
802	198313	30024	5212006	6032006	6	\$535.00	7	\$345.051	18.87	12.75	240.5925	0	240.5925	0	240.5925
802	198313	30024	5222005	6042005	33	4929.3	7	\$0.00	0	12.75	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
802	198313	30024	6042006	6172006	0	\$0.00	7	\$458.7443	32.15	12.75	409.9125	0	409.9125	0	409.9125
802	198313	30024	6052005	6182005	37	6553.49	7	\$26.641	16.7	12.75	\$212.93	\$0.00	\$212.93	\$33.68	\$246.61
802	198313	30024	6182006	7012006	17	\$3,522.96	7	266	17.18	12.75	219.045	0	219.045	0	219.045
802	198313	30024	6192005	7022005	29	3800	7	317.45	19.77	12.75	252.0675	0	194.6875	0	194.6875
802	198313	30024	7032005	7162005	25	4535	7	\$33.53	5.72	12.75	\$72.93	\$0.00	\$72.93	\$0.00	\$72.93
802	198313	30024	7162006	7292006	7	\$478.97	7	\$213.696	13.97	12.75	178.1175	0	178.1175	0	178.1175
802	198313	30024	7172005	7302005	21	3052.8	7	\$314.92	14.85	12.75	\$189.34	\$0.00	\$189.34	\$185.58	\$374.92
802	198313	30024	7312006	8132006	19	\$5,556.00	7	251.2636	21.61	12.75	275.5275	0	275.5275	0	275.5275
802	198313	30024	8132005	8132005	31	3589.48	7	\$24.60	5.63	12.75	\$71.78	\$0.00	\$71.78	\$0.00	\$71.78
802	198313	30024	8132006	8262006	5	\$351.40	7	237.3	10.43	12.75	132.9825	0	132.9825	0	132.9825
802	198313	30024	8142005	8272005	1	3390	7	\$113.75	8.52	12.75	\$108.63	\$0.00	\$108.63	\$5.12	\$113.75
802	198313	30024	8272006	9092006	17	\$1,625.00	7	265.755	12.41	12.75	158.2275	0	158.2275	0	158.2275
802	198313	30024	8282005	9102005	19	3796.5	7	\$112.28	5.73	12.75	\$73.06	\$0.00	\$73.06	\$39.22	\$112.28
802	198313	30024	9102006	9232006	5	\$1,604.00	7	5.46	1.67	12.75	21.2925	0	21.2925	0	21.2925
802	198313	30024	9112005	9242005	-1	78	7	288.68	9.77	12.75	124.5675	0	124.5675	0	124.5675
802	198313	30024	9252005	10082005	14	4124	7	674.00	22.73	12.75	289.8075	\$0.00	\$289.81	384.19	\$674.00
802	198313	30024	10082006	10212006	24	\$9,628.50	7	70.07	19.4	12.75	247.35	0	247.35	0	247.35
802	198313	30024	10092005	10222005	13	1001	7	118.37	17.35	12.75	221.2125	\$0.00	\$221.21	0.00	\$221.21
802	198313	30024	10222006	11042006	10	\$1,691.00	7	58.59	15.99	12.75	203.8725	0	203.8725	0	203.8725
802	198313	30024	10232005	11052005	5	837	7	590.35	13.92	12.75	177.48	\$0.00	\$177.48	412.87	\$590.35
802	198313	30024	11052006	11182006	35	\$8,433.58	7	1057.8861	19.58	12.75	249.645	0	249.645	472.1731	\$721.8181
802	198313	30024	11062005	11192005	52	15112.83	7	309.11	41.89	12.75	534.0975	0.00	534.10	0.00	534.10
802	198313	30024	11072004	11202004	34	4,415.80	7	-190.176	0.00	0	0	\$0.00	\$0.00	0.00	\$0.00
802	198313	30024	11122006	12022006	-3	-\$2,716.80	7	454.17	21.65	12.75	276.0375	0.00	276.04	178.13	454.17
802	198313	30024	11212004	12042004	25	6,488.10	7	6.65	13.8	12.75	175.95	\$0.00	\$175.95	0.00	\$175.95
802	198313	30024	12032006	12162006	1	\$95.00	7	323.0479	19.12	12.75	243.78	0	243.78	79.2679	323.0479
802	198313	30024	12042005	12172005	27	4614.97	7	413.81	33.02	12.75	421.005	0.00	421.01	0.00	421.01
802	198313	30024	12052004	12182004	34	5,911.64	7	0.00	6.32	12.75	80.58	\$0.00	\$80.58	0.00	\$80.58
802	198313	30024	12172006	12302006	0	\$0.00	7	(35.19)	5.01	12.75	63.8775	0.00	63.88	0.00	63.88
802	198313	30024	12192004	1012005	-5	(502.74)	7								

802	198313	30024	12312006	1132007	2	734	7	51.38	15.56	12.75	198.39	0	66.68	0.00	\$66.68
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### Missed Draw Target 40 out of 54 Pay Periods

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total				
											BASE Pay	Com \$ Pd TOTAL PAY			
802	345554	49547	1022005	1162005	108	10,064.59	8	805.17	71.82	12.75	915.705	0.00	801.21	3.96	805.17
802	345554	49547	1162005	1292005	53	7,561.27	8	604.90	27.44	12.75	349.86	0.00	349.86	255.04	604.90
802	345554	49547	1302005	2122005	67	6,776.69	8	542.14	28.55	12.75	364.0125	0.00	364.01	178.12	542.14
802	345554	49547	2132005	2262005	42	3,755.43	8	300.43	27.6	12.75	351.9	0.00	351.90	0.00	351.90
802	345554	49547	2272005	3122005	34	3,291.27	8	263.30	27.14	12.75	346.035	0.00	346.04	0.00	346.04
802	345554	49547	3132005	3262005	30	2,116.65	8	169.33	27.5	12.75	350.625	0.00	350.63	0.00	350.63
802	345554	49547	8012004	8142004	103	6,496.57	8	519.73	82.36	12.75	1,050.09	0.00	1,050.09	0.00	1,050.09
802	345554	49547	8152004	8282004	119	9,715.57	8	777.25	68.98	12.75	879.495	0.00	879.50	0.00	879.50
802	345554	49547	8292004	9112004	129	8,564.13	8	685.13	67.87	12.75	865.3425	0.00	865.34	0.00	865.34
802	345554	49547	9122004	9252004	109	8,977.55	8	718.20	70.73	12.75	901.8075	0.00	901.81	0.00	901.81
802	345554	49547	9262004	10092004	58	4,510.50	8	360.84	66.12	12.75	843.03	0.00	843.03	0.00	843.03
802	345554	49547	10102004	10232004	64	9,059.41	8	724.75	46.52	12.75	593.13	0.00	593.13	0.00	593.13
802	345554	49547	10242004	11062004	86	11,377.47	8	910.20	65.71	12.75	837.8025	0.00	837.80	0.00	837.80
802	345554	49547	11072004	11202004	90	10,419.41	8	833.55	58.03	12.75	739.8825	0.00	739.88	0.00	739.88
802	345554	49547	11212004	12042004	97	11,390.02	8	911.20	69.45	12.75	885.4875	0.00	885.49	0.00	885.49
802	345554	49547	12062004	12182004	127	15,302.22	8	1,224.18	65.48	12.75	834.87	0.00	834.87	0.00	834.87
802	345554	49547	12192004	1012005	153	17,362.95	8	1,389.04	78.78	12.75	1004.445	0.00	1,004.45	251.29	1,255.74
FY2006 (Calendar April 05-March 06)															
str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	TOTAL PAY	
802	345554		49547	4102005	4232005	41	3357.92	8	268.6336	34.52	12.75	440.13	0	440.13	0
802	345554		49547	4242005	5072005	65	5182.5	8	414.6	12.62	12.75	160.905	0	160.905	259.695

### FY2006 (Calendar April 05-March 06)

### Missed Draw Target 14 out of 19 Pay Periods

FY2005

											Total				
											BASE				
str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Pay	Com \$ Pd TOTAL PAY			
802	444699	50598	1022005	1152005	147	10,759.06	7	753.13	71.89	12.75	916.47	0.00	801.72	0.00	801.72
802	444699	50598	1162005	1292005	148	8,031.63	7	562.21	54.24	12.75	691.56	0.00	691.56	0.00	691.56
802	444699	50598	1302005	2122005	120	8,941.83	7	625.93	65.25	12.75	831.9375	0.00	831.94	0.00	831.94
802	444699	50598	2132005	2262005	23	3,695.69	7	258.70	30.34	12.75	386.835	0.00	386.84	0.00	386.84
802	444699	50598	2272005	3122005	119	6,747.49	7	472.32	54.29	12.75	692.1875	0.00	692.20	0.00	692.20
802	444699	50598	3132005	3262005	47	4,673.49	7	327.14	39.26	12.75	500.565	0.00	500.57	0.00	500.57
802	0	50598	8292004	9112004	17	1,993.49	7	139.54	28	12.75	357	0.00	357.00	0.00	357.00
802	0	50598	9122004	9252004	95	7,262.00	7	508.34	34.14	12.75	435.285	0.00	435.29	73.05	508.34
802	0	50598	9262004	10092004	62	6,710.50	7	469.74	67.49	12.75	860.4875	0.00	860.50	0.00	860.50

802	0	50598	10102004	10232004	74	8,368.44	7	655.79	46.51	12.75	593.0025	0.00	593.00	62.79	655.79
802	444699	50598	10242004	11062004	113	9,632.50	7	674.28	65.67	12.75	837.2825	0.00	837.29	0.00	837.29
802	444699	50598	11072004	11202004	86	8,608.34	7	602.58	62.79	12.75	800.5725	0.00	800.57	0.00	800.57
802	444699	50598	11212004	12042004	95	10,953.56	7	766.75	71.9	12.75	916.725	0.00	916.73	0.00	916.73
802	444699	50598	12052004	12182004	114	13,482.63	7	943.78	57.31	12.75	730.7025	0.00	730.70	213.08	943.78
802	444699	50598	12192004	1012005	122	11,788.04	7	825.16	56.73	12.75	723.3075	0.00	723.31	0.00	723.31

## Missed Draw Target 12 Out of 15 Pay Periods

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	BASE	Total	Pay	Com \$ Pd	TOTAL PAY
802	0	52089	10102004	10232004	5	2,270.92	8	181.67	28.05	12.75	357.6375	0.00	357.64	0.00	357.64
802	0	52089	10242004	11062004	33	5,623.00	8	449.84	70.36	12.75	897.09	0.00	897.09	0.00	897.09
802	0	52089	11072004	11202004	89	8,738.53	8	699.08	75.74	12.75	965.685	0.00	965.69	0.00	965.69
802	0	52089	11212004	12042004	33	2,494.79	8	199.58	76.64	12.75	977.16	0.00	977.16	0.00	977.16

## Missed Draw Target Every Pay Period

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	BASE	Total	Pay	Com \$ Pd	TOTAL PAY
802	0	54288	1022005	1152005	18	2,080.00	7	145.60	24.76	12.75	315.69	0.00	200.56	0.00	200.56
802	0	54288	1162005	1292005	20	5,986.08	7	419.03	12.52	12.75	159.63	0.00	159.63	258.40	419.03
802	0	54288	1302005	2122005	29	5,830.80	7	408.16	12.08	12.75	154.02	0.00	154.02	199.18	353.20
802	0	54288	2132005	2262005	9	539.45	7	37.76	22.94	12.75	292.485	0.00	292.49	0.00	292.49
802	0	54288	2272005	3122005	13	666.50	7	46.66	12.07	12.75	153.8925	0.00	153.89	0.00	153.89
802	0	54288	3132005	3262005	12	2,278.00	7	159.53	19.48	12.75	248.37	0.00	248.37	0.00	248.37
802	0	54288	11212004	12042004	14	1,517.83	7	106.25	23.25	12.75	296.4375	0.00	296.44	0.00	296.44
802	0	54288	12052004	12182004	21	3,047.89	7	213.35	28.62	12.75	364.905	0.00	364.91	0.00	364.91
802	0	54288	12192004	1012005	57	3,190.87	7	223.36	21.25	12.75	270.9375	0.00	270.94	0.00	270.94

FY2006

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	BASE	Total	Pay	Com \$ Pd	TOTAL PAY
802	0	54288	4102005	4232005	10	1,861.6	7	130.312	14.95	12.75	190.6125	0	180.6125	0	190.6125
802	0	54288	4242005	5072005	8	1,088.75	7	76.2125	11.35	12.75	144.7125	0	144.7125	0	144.7125
802	0	54288	5082005	5212005	30	2,294.95	7	160.6465	17.72	12.75	225.93	0	225.93	0	225.93
802	0	54288	5222005	6042005	7	487.99	7	34.1593	11.89	12.75	151.5975	0	151.5975	0	151.5975
802	0	54288	6052005	6182005	1	126.68	7	8.8676	5.73	12.75	73.0575	0	73.0575	0	73.0575
802	0	54288	6192005	7022005	25	486.81	7	34.0767	11.86	12.75	151.215	0	151.215	0	151.215
802	0	54288	7032005	7162005	71	2,959.18	7	207.1426	24.3	12.75	309.825	0	252.445	0	252.445
802	0	54288	7172005	7302005	14	1,495.75	7	104.7025	12.37	12.75	157.7175	0	157.7175	0	157.7175
802	0	54288	7312005	8132005	5	147.79	7	10.3453	13.08	12.75	166.77	0	166.77	0	166.77
802	0	54288	8142005	8272005	72	6,607.13	7	462.4891	5.92	12.75	75.48	0	75.48	208.2491	283.7291

FY2007 (Calendar April 06-March 07)																										
str	sls	person	file	start	end	units	net	sales	Com	%	Com	\$	Base	Hrs	HR	Rate	Hrly	Total	Salary	Base	Pay	Com	\$	Pd	Total	Pay
802	0	54288	8282005	9102005	13	5038.8	7	352.716	11.51	12.75	146.7525	0	146.7525	205.9635	352.716											
802	0	54288	9112005	9242005	5	986.25	7	69.0375	10.65	12.75	135.7875	0	135.7875	0	135.7875											
802	0	54288	9252005	10082005	16	14328.8	7	1003.016	11.35	12.75	144.7125	0	144.7125	791.5535	936.266											
810	0	54288	1282007	2102007	36	5500.95	7	385.07	21.16	10.15	214.774	0	214.77	170.29	\$385.07											
810	0	54288	2112007	2242007	12	4497.8	7	314.85	12.53	11.25	140.9625	0	140.96	173.88	\$314.85											
810	0	54288	2252007	3102007	18	3043.25	7	213.03	19.62	11.25	220.725	0	220.73	0.00	\$220.73											
810	0	54288	3112007	3242007	16	1351.85	7	94.63	23.62	11.25	265.725	0	265.73	0.00	\$265.73											
810	0	54288	10082006	10212006	5	\$1,138.00	7	79.66	13.43	10.15	215.596	\$0.00	\$215.59	0.00	\$215.59											
810	0	54288	10222006	11042006	2	\$175.00	7	12.25	29.31	10.15	187.6735	\$0.00	\$187.67	0.00	\$187.67											
810	0	54288	11052006	11182006	59	\$9,873.25	7	698.13	18.49	10.15	297.4965	\$0.00	\$297.50	400.63	\$698.13											
810	0	54288	11192006	12022006	17	\$923.98	7	\$25.67	23.58	10.15	\$239.34	\$0.00	\$239.34	\$0.00	\$239.34											
810	0	54288	12032006	12162006	21	\$366.75	7	95.83	15.83	10.15	160.6745	\$0.00	\$160.67	0.00	\$160.67											
810	0	54288	12172006	12302006	11	\$1,369.00	7	28.09	13.54	10.15	137.431	0	97.34	0.00	\$97.34											
810	0	54288	12312006	1132007	7	401.24	7							0.00		\$97.34										

## Missed Draw Target 25 out of 33 Pay Periods

## FY2005

str	sls	person ID	start	end	units	net sales	Com %	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Pay	Com \$ Pd	TOTAL PAY
810	355860	34713	1022005	1152005	37	4,410.08	8.5	374.86	40.82	10.15	414.323	0.00	373.72	1.13	374.86
810	355860	34713	1162005	1292005	26	3,272.21	8.5	278.14	43.34	10.15	439.901	0.00	439.90	0.00	439.90
810	355860	34713	1302005	2122005	42	1,811.05	8.5	153.94	31.66	10.15	321.349	0.00	321.35	0.00	321.35
810	355860	34713	2132005	2262005	21	2,030.19	8.5	172.57	35.55	10.15	360.8325	0.00	360.83	0.00	360.83
810	355860	34713	2272005	3122005	26	3,775.26	8.5	320.90	37.14	10.15	376.971	0.00	376.97	0.00	376.97
810	355860	34713	3132005	3262005	18	2,062.00	8.5	175.27	31.95	10.15	324.2925	0.00	324.29	0.00	324.29
810	355860	34713	4112004	4242004	22	2,002.89	8.5	170.25	38.07	10.15	386.4105	0.00	386.41	0.00	386.41
810	355860	34713	4252004	5082004	8	9,134.00	8.5	776.39	19.77	10.15	200.67	0.00	200.67	575.72	776.39
810	355860	34713	5092004	5222004	-2	(140.00)	8.5	(11.90)	0	0	0	0.00	0.00	0.00	0.00
810	355860	34713	5232004	6052004	10	1,647.00	8.5	140.00	24.51	10.15	248.7765	0.00	248.78	0.00	248.78
810	355860	34713	6062004	6192004	27	11,515.46	8.5	978.81	45.27	10.15	459.4805	0.00	459.49	519.32	978.81
810	355860	34713	6202004	7032004	23	2,604.39	8.5	221.37	28.31	10.15	287.3465	0.00	287.35	0.00	287.35
810	355860	34713	7042004	7172004	39	4,218.29	8.5	358.55	46.78	10.15	474.817	0.00	474.82	0.00	474.82
810	355860	34713	7182004	7312004	-3	(339.20)	8.5	(28.83)	12	10.15	121.8	0.00	121.80	0.00	121.80
810	355860	34713	8012004	8142004	20	4,361.89	8.5	370.76	32.36	10.15	328.454	0.00	328.45	42.31	370.76
810	355860	34713	8152004	8282004	24	6,906.10	8.5	587.02	48.38	10.15	491.057	0.00	491.06	95.96	587.02
810	355860	34713	8282004	9112004	17	5,800.99	8.5	493.08	44.04	10.15	447.006	0.00	447.01	46.08	493.08
810	355860	34713	9122004	9252004	23	3,563.50	8.5	302.90	44.95	10.15	456.2425	0.00	456.24	0.00	456.24
810	355860	34713	9262004	10092004	8	2,480.00	8.5	210.80	45.42	10.15	501.613	0.00	501.61	0.00	501.61
810	355860	34713	10102004	10232004	17	952.00	8.5	80.92	45.76	10.15	464.464	0.00	464.46	0.00	464.46
810	355860	34713	10242004	11062004	10	3,289.00	8.5	279.57	36.93	10.15	374.8395	0.00	374.84	0.00	374.84
810	355860	34713	11072004	11202004	54	12,083.26	8.5	1,027.08	46.98	10.15	476.847	0.00	476.85	550.23	1,027.08
810	355860	34713	11212004	12042004	54	10,938.82	8.5	929.80	55.79	10.15	566.2885	0.00	566.27	363.53	929.80

Total

BASE

Pay Com \$ Pd TOTAL PAY

FY2006 (Calendar April 05-March 06)														
str	supersn	file	start	and	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hty Total	Salary	Total Pay	Com \$ Pd
810	355860	34713	4242005	5072005	15	\$3,265.20	8.5	\$277.54	35.71	10.15	\$362.46	\$0.00	\$362.46	\$0.00
810	355860	34713	5082005	5212005	84	\$14,804.15	8.5	\$1,258.35	42.58	10.15	\$432.19	\$0.00	\$432.19	\$926.17
810	355860	34713	5222005	6042005	32	\$10,002.90	8.5	\$850.25	49.04	10.15	\$497.76	\$0.00	\$497.76	\$352.49
810	355860	34713	6052005	6182005	22	\$963.14	8.5	\$36.869	33.35	10.15	\$38.5025	0	\$38.50	0.00
810	355860	34713	6192005	7022005	47	\$7,633.20	8.5	\$648.62	17.48	10.15	\$177.42	\$0.00	\$177.42	\$471.40
810	355860	34713	7032005	7162005	21	\$1,116.16	8.5	\$94.67	19.15	10.15	\$194.37	\$0.00	\$194.37	\$0.00
810	355860	34713	7172005	7302005	1	-\$23.00	8.5	-\$1.96	7.75	10.15	\$78.66	\$0.00	\$78.66	\$0.00
810	355860	34713	7312005	8132005	-2	-\$104.25	8.5	-\$8.96	7.75	10.15	\$78.66	\$0.00	\$78.66	\$0.00

**Missed Draw Target 20 out of 33 Pay Periods**

## FY2005

str	dispersion ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total	
											BASE	PAY
810	715775	45379	4112004	4242004	105	8,042.50	8.5	683.61	62.32	747.84	0.00	747.84
810	715775	45379	4252004	5082004	121	7,170.98	8.5	609.53	53.16	637.92	0.00	637.92
810	715775	45379	5092004	5222004	29	1,720.50	8.5	146.24	31.71	380.52	0.00	380.52
810	715775	45379	5232004	6052004	79	4,462.69	8.5	379.33	93.33	1,119.96	0.00	1,119.96
810	715775	45379	6062004	6192004	131	7,539.21	8.5	640.83	63.77	765.24	0.00	765.24
810	715775	45379	6202004	7032004	103	10,029.71	8.5	852.53	0	0	0.00	0.00

**Missed Draw Target Every Pay Period**

## FY2005

str	sliperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	Hr Rate	Hrly Total Salary	Total BASE	Pay	Com \$ Pd TOTAL PAY
810	366906	46859	5092004	5222004	82	4,760.50	8	380.84	65.62	787.44	0.00	787.44	0.00
810	366906	46859	5232004	6052004	157	7,963.91	8	637.11	85.76	1,029.12	0.00	1,029.12	0.00
810	366906	46859	6062004	6192004	37	2,080.57	8	166.45	39.13	469.56	0.00	469.56	0.00
810	366906	46859	6202004	7032004	33	1,644.88	8	131.59	0	0	0.00	0.00	0.00

**Missed Draw Target Every Pay Period**

## FY 2005

str	slperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE	Com \$ Pd TOTAL PAY
810	713268	49592	8012004	8142004	153	9,339.69	8	747.18	80.31	12	963.72	0.00



810	713268	49592	8152004	8282004	66	4,740.14	8	379.21	87.54	12	1050.48	0.00	1,050.48	0.00	1,050.48
810	713268	49592	8292004	9112004	105	6,414.65	8	513.17	89.43	12	1073.16	0.00	1,073.16	0.00	1,073.16
810	713268	49592	9122004	9252004	73	4,888.41	8	391.07	78.87	10.15	800.5305	0.00	800.53	0.00	800.53
810	713268	49592	9262004	10092004	79	6,909.00	8	552.72	80.77	10.15	819.8155	0.00	819.82	0.00	819.82
810	713268	49592	10102004	10232004	75	8,166.00	8	653.28	73.07	10.15	741.6605	0.00	741.66	0.00	741.66
810	713268	49592	10242004	11062004	79	7,045.01	8	563.60	71.02	10.15	720.853	0.00	720.85	0.00	720.85
810	713268	49592	11072004	11202004	89	7,530.40	8	602.43	77.71	10.15	788.7565	0.00	788.76	0.00	788.76
810	713268	49592	11212004	12042004	68	6,193.15	8	495.45	73.99	10.15	750.9985	0.00	751.00	0.00	751.00
810	713268	49592	12052004	12162004	154	12,229.87	8	978.39	69.5	10.15	705.425	0.00	705.43	0.00	705.43

## Missed Draw Target Every Pay Period

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE Pay	Com \$ Pd TOTAL PAY
810	93289	8012004	8142004	166	13,314.33	7	932.00	172.94	12	2075.28	2,075.28	2,075.28
810	93289	8152004	8282004	194	12,074.97	7	845.25	82.53	12	990.36	990.36	990.36
810	93289	8292004	9112004	153	9,918.28	7	694.28	62.48	12	749.76	749.76	749.76

## Missed Draw Target Every Pay Period

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE Pay	Com \$ Pd TOTAL PAY
810	816356	1022005	1152005	76	6,148.27	7	430.38	58.73	10.15	596.1095	545.36	545.36
810	816356	1162005	1292005	5	(2,024.01)	7	322.50	48.58	10.15	493.087	493.09	493.09
810	816356	1302005	2122005	4	277.47	7	19.42	24.42	10.15	247.863	247.86	247.86
810	816356	2132005	2262005	53	4,805.46	7	336.38	42.71	10.15	433.5065	433.51	433.51
810	816356	2272005	3122005	6	322.50	7	22.58	37.35	10.15	379.1025	379.10	379.10
810	816356	3132005	3262005	60	4,678.50	7	327.50	61.88	10.15	628.082	628.08	628.08
810	0	10102004	10232004	9	785.50	7	54.99	8.1	10.15	82.215	82.22	82.22
810	0	10242004	11062004	60	4,697.50	7	328.83	45.01	10.15	456.8515	456.85	456.85
810	816356	11072004	11202004	49	3,838.76	7	288.71	50.14	10.15	508.921	508.92	508.92
810	816356	11212004	12042004	48	5,540.00	7	387.80	39.5	10.15	400.925	400.93	400.93
810	816356	12052004	12182004	28	2,424.30	7	189.70	27.52	10.15	279.328	279.33	279.33
810	816356	12182004	1012005	66	7,448.90	7	521.42	42.31	10.15	429.4465	429.45	429.45

## Missed Draw Target Every Pay Period

FY2005

str	sls	person	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total	BASE	Pay	Com \$ Pd	TOTAL PAY
810	0	54487	0	1022005	1152005	57	4,316.80	7	302.18	54.12	10.15	549.318	498.57	0.00	498.57	0.00	498.57
810	0	54487	0	1162005	1292005	29	1,838.90	7	128.72	45.78	10.15	464.667	464.67	0.00	464.67	0.00	464.67
810	0	54487	0	1302005	2122005	48	3,567.36	7	249.72	51.42	10.15	521.913	521.91	0.00	521.91	0.00	521.91
810	0	54487	0	2132005	2262005	61	5,816.70	7	407.17	39.02	10.15	396.053	396.05	0.00	396.05	0.00	396.05
810	0	54487	0	2272005	3122005	57	3,679.71	7	257.58	62.09	10.15	630.2135	630.21	0.00	630.21	0.00	630.21
810	0	54487	0	3132005	3262005	44	3,193.00	7	223.51	40.94	10.15	415.541	415.54	0.00	415.54	0.00	415.54
810	0	54487	0	12052004	12182004	179	14,412.93	7	1,008.91	105.61	10.15	1071.9415	1,071.94	0.00	1,071.94	0.00	1,071.94
810	0	54487	0	12192004	1012005	96	7,256.77	7	507.97	33.08	10.15	335.762	335.76	0.00	335.76	172.21	507.97

## Missed Draw Target 7 out of 8 Pay Periods

## FY2005

str	sls	person	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total	BASE	Pay	Com \$ Pd	TOTAL PAY
810	0	54730	0	1022005	1152005	34	2,128.89	7	148.88	38.82	10.15	394.023	353.42	0.00	353.42	0.00	353.42
810	0	54730	0	1162005	1292005	35	2,703.05	7	189.21	37.21	10.15	377.6815	377.68	0.00	377.68	0.00	377.68
810	0	54730	0	1302005	2122005	20	2,627.42	7	183.92	36.29	10.15	368.3435	368.34	0.00	368.34	0.00	368.34
810	0	54730	0	2132005	2262005	24	2,568.45	7	181.19	29.14	10.15	295.771	295.77	0.00	295.77	0.00	295.77
810	0	54730	0	2272005	3122005	39	2,139.27	7	149.75	59.27	10.15	601.5905	601.59	0.00	601.59	0.00	601.59
810	0	54730	0	3132005	3262005	15	907.50	7	63.53	32.57	10.15	330.5855	330.59	0.00	330.59	0.00	330.59
810	0	54730	0	12052004	12182004	39	3,048.32	7	213.38	0	0	0	0.00	0.00	0.00	0.00	0.00
810	0	54730	0	12192004	1012005	142	10,408.72	7	728.61	134.13	10.15	1361.4195	1,361.42	0.00	1,361.42	0.00	1,361.42

str	sls	person	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total	BASE	Pay	Com \$ Pd	TOTAL PAY
810	0	54730	0	3272005	4092005	43	\$3,542.00	7	\$247.94	55.05	10.15	\$558.76	\$558.76	\$0.00	\$558.76	\$0.00	\$558.76
810	0	54730	0	4102005	4232005	99	\$6,257.23	7	\$438.01	52.76	10.15	\$535.51	\$535.51	\$0.00	\$535.51	\$0.00	\$535.51
810	0	54730	0	4242005	5072005	46	\$3,526.76	7	\$246.87	42.59	10.15	\$432.29	\$432.29	\$0.00	\$432.29	\$0.00	\$432.29
810	0	54730	0	5082005	5212005	73	\$4,819.08	7	\$337.34	44.98	10.15	\$456.55	\$456.55	\$0.00	\$456.55	\$0.00	\$456.55
810	0	54730	0	5222005	6042005	80	\$4,863.01	7	\$340.41	33.44	10.15	\$339.42	\$339.42	\$0.00	\$339.42	\$0.00	\$339.42
810	0	54730	0	6052005	6182005	90	\$1,286.67	7	\$59.0069	35.09	10.15	\$356.1635	\$356.16	0.00	\$356.16	0.00	\$356.16
810	0	54730	0	6192005	7022005	120	\$7,490.06	7	\$524.30	50.96	10.15	\$517.24	\$517.24	\$0.00	\$517.24	\$0.00	\$517.24
810	0	54730	0	7032005	7162005	88	\$4,498.71	7	\$314.91	56.74	10.15	\$575.91	\$575.91	\$0.00	\$575.91	\$0.00	\$575.91
810	0	54730	0	7172005	7302005	72	\$4,926.52	7	\$344.86	36.52	10.15	\$370.68	\$370.68	\$0.00	\$370.68	\$0.00	\$370.68
810	0	54730	0	7312005	8132005	93	\$5,449.86	7	\$381.49	47.63	10.15	\$483.44	\$483.44	\$0.00	\$483.44	\$0.00	\$483.44
810	0	54730	0	8142005	8272005	76	\$6,683.25	7	\$467.83	40.09	10.15	\$406.9135	\$406.91	0.00	\$406.91	0.00	\$406.91
810	0	54730	0	8282005	9102005	100	\$8,631.98	7	\$604.24	60.85	10.15	\$617.6275	\$617.63	0.00	\$617.63	0.00	\$617.63
810	0	54730	0	9112005	9242005	106	\$8,455.10	7	\$591.86	67.66	10.15	\$686.749	\$686.75	0.00	\$686.75	0.00	\$686.75
810	0	54730	0	9252005	10082005	66	\$7,150.50	7	\$500.54	59.56	10.15	\$604.534	\$604.53	0.00	\$604.53	0.00	\$604.53
810	0	54730	0	10092005	10222005	49	\$4,598.98	7	\$321.93	58.7	10.15	\$595.805	\$595.81	0.00	\$595.81	0.00	\$595.81
810	0	54730	0	10232005	11052005	32	\$3,351.00	7	\$234.57	52.41	10.15	\$531.9615	\$531.96	0.00	\$531.96	0.00	\$531.96
810	0	54730	0	11062005	11192005	53	\$6,424.49	7	\$449.71	56.89	10.15	\$577.4335	\$577.43	0.00	\$577.43	0.00	\$577.43
810	0	54730	0	12042005	12172005	17	\$1,796.48	7	125.75	64.09	10.15	\$650.5135	\$650.51	0.00	\$650.51	0.00	\$650.51



## Missed Draw Target Every Pay Period

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE Pay	Com \$ Pd TOTAL PAY
817	0	1022005	1152005	90	6,472.63	8	517.81	74.59	10.15	757.0885	713.04	0.00
817	0	1162005	1292005	73	8,364.30	8	669.14	71.05	10.15	721.1575	721.16	0.00
817	0	1302005	2122005	64	3,812.83	8	305.03	63.77	10.15	647.2655	647.27	0.00
817	0	2132005	2262005	31	2,431.32	8	194.51	59.94	10.15	608.391	608.39	0.00
817	0	8292004	9112004	56	5,150.45	8	412.04	68.3	12	819.6	819.60	(407.56)
817	0	9122004	9252004	101	9,545.49	8	763.64	36	12	432	432.00	331.64
817	0	9262004	10092004	110	12,397.46	8	991.80	79.4	10.15	805.91	805.91	185.89
817	0	10102004	10232004	56	5,152.50	8	412.20	61.99	10.15	629.1985	629.20	0.00
817	0	10242004	11062004	46	6,398.00	8	511.92	76.94	10.15	780.941	780.94	0.00
817	0	11072004	11202004	102	14,253.33	8	1,140.27	80.21	10.15	814.1315	814.13	0.00
817	0	11212004	12042004	151	17,895.47	8	1,431.64	70.61	10.15	716.6915	716.69	419.26
817	0	12052004	12182004	105	7,927.91	8	634.23	76.34	10.15	774.851	774.85	0.00
817	0	12192004	1012005	180	15,124.16	8	1,209.93	79.86	10.15	810.579	810.58	256.73
817	0	12192004	1012005	180	15,124.16	8	1,209.93	79.86	10.15	810.579	810.58	256.73

## Missed Draw Target 11 out of 14 Pay Periods

FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total BASE Pay	Com \$ Pd TOTAL PAY
817	0	1022005	1152005	25	864.33	8	69.15	21.34	10.15	216.601	181.58	0.00
817	0	1162005	1292005	38	2,090.25	8	167.22	25.86	10.15	263.484	263.49	0.00
817	0	1302005	2122005	26	2,029.98	8	162.40	17.88	10.15	181.482	181.48	0.00
817	0	2132005	2262005	14	591.69	8	47.34	33.2	10.15	336.98	336.98	0.00
817	0	2272005	3122005	-1	(27.30)	8	(2.18)	0	0	0	0.00	0.00
817	0	9262004	10092004	3	206.00	8	16.48	22.74	12	272.88	272.88	0.00
817	0	10102004	10232004	36	1,733.45	8	138.68	18.08	10.15	183.512	183.51	0.00
817	0	10242004	11062004	8	(513.00)	8	(41.04)	22.99	10.15	233.3485	233.35	0.00
817	0	11072004	11202004	29	3,093.22	8	247.46	26.52	10.15	289.478	289.48	0.00
817	0	11212004	12042004	25	2,407.75	8	192.62	26.88	10.15	272.832	272.83	0.00
817	0	12052004	12182004	44	2,191.80	8	175.34	36.69	10.15	372.4035	372.40	0.00
817	0	12192004	1012005	97	7,799.16	8	623.93	37.87	10.15	384.3805	384.38	0.00
817	0	12192004	1012005	97	7,799.16	8	623.93	37.87	10.15	384.3805	384.38	0.00

## Missed Draw Target Every Pay Period

## FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd TOTAL PAY
831	763647	30076	4112004	4242004	115	8.5	784.46	88.67	10.15	900.0005	900.00	0.00
831	763647	30076	5092004	5222004	125	8.5	854.96	91.92	10.15	932.988	932.99	0.00
831	763647	30076	5232004	6052004	113	8.5	757.01	87.8	10.15	891.17	891.17	0.00
831	763647	30076	6062004	6192004	134	8.5	773.90	91.14	10.15	925.071	925.07	0.00
831	763647	30076	6202004	7032004	154	8.5	937.79	93.33	10.15	947.2895	947.30	0.00
831	763647	30076	7042004	7172004	102	8.5	540.80	85.54	10.15	868.231	840.82	0.00
831	763647	30076	7182004	7312004	89	8.5	568.41	79.66	10.15	808.549	808.55	0.00
831	763647	30076	8012004	8142004	140	8.5	946.24	81.8	10.15	830.27	830.27	0.00
831	763647	30076	8152004	8282004	41	8.5	173.99	43.85	10.15	445.0775	445.08	0.00
831	763647	30076	8292004	9112004	54	8.5	356.06	44.34	10.15	450.051	450.05	0.00

## Missed Draw Target 9 out of 10 Pay Periods

## FY2005

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd TOTAL PAY
831	50964	1022005	1152005	62	6,515.49	7	456.08	44.4	12	532.8	512.50	0.00
831	50964	1162005	1292005	40	3,229.74	7	226.08	35.69	10.15	362.2535	362.25	0.00
831	50964	1302005	2122005	71	4,894.39	7	342.61	43.68	10.15	443.352	443.35	0.00
831	50964	2132005	2262005	73	6,906.14	7	483.43	37.99	10.15	385.5985	385.60	0.00
831	50964	2272005	3122005	35	4,350.43	7	304.53	27.84	10.15	282.576	282.58	0.00
831	50964	3132005	3262005	35	2,858.00	7	200.06	29.45	10.15	298.9175	298.92	0.00
831	50964	9122004	9252004	54	5,524.25	7	386.70	50.61	12	607.32	607.32	0.00
831	50964	9262004	10092004	85	9,409.00	7	656.63	46.32	12	555.84	555.84	0.00
831	50964	10102004	10232004	41	7,533.00	7	527.31	35.82	12	429.84	429.84	0.00
831	50964	10242004	11062004	44	2,496.99	7	174.79	26.91	12	322.92	322.92	0.00
831	50964	11072004	11202004	58	5,899.15	7	412.94	29.77	12	357.24	357.24	0.00
831	50964	11212004	12042004	71	10,033.28	7	702.33	46.65	12	559.8	559.80	0.00
831	50964	12052004	12182004	52	6,166.49	7	431.65	19.6	12	235.2	235.20	0.00
831	50964	12192004	1012005	188	20,548.36	7	1,438.39	75.88	12	910.56	910.56	0.00

## FY2006 (Calendar April 05-March 06)

str	slsperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd TOTAL PAY
831	50964	3272005	4092005	4	\$553.50	7	\$38.75	16.42	10.15	\$166.66	\$166.66	\$0.00
831	50964	4102005	4232005	53	\$5,060.39	7	\$354.23	28.26	10.15	\$286.94	\$286.94	\$0.00
831	50964	4242005	5072005	42	\$5,120.90	7	\$358.46	29.92	10.15	\$303.69	\$303.69	\$0.00
831	50964	5082005	5212005	95	\$12,115.30	7	\$848.07	28.2	10.15	\$286.23	\$286.23	\$0.00
831	50964	5222005	6042005	47	\$4,012.90	7	\$280.90	36.8	10.15	\$373.52	\$373.52	\$0.00

## Missed Draw Target 13 out of 19 Pay Periods

## FY2006

str	dispersion file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
802	588681	48200	1012006	103	16150.18	8	1292.0144	61.64	12.75	785.91	0	696.57
802	588681	48200	1152006	86	787.63	8	63.0104	81.37	12.75	1037.4675	0	1037.4675
802	588681	48200	1292006	94	10065.78	8	805.2624	71.23	12.75	908.1825	0	908.1825
802	588681	48200	2122006	139	14297.3	8	1143.784	74.6	12.75	951.15	0	951.15
802	588681	48200	2262006	85	9535.93	8	762.8744	74.52	12.75	950.13	0	950.13
802	588681	48200	3122006	72	6371.51	8	669.7208	73.68	12.75	939.42	0	939.42
802	588681	48200	3262006	56	10144	8	811.52	71.66	12.75	913.665	0	913.665
802	588681	48200	3272005	83	6651	8	532.08	76.12	12.75	970.53	0	970.53
802	588681	48200	4102005	147	10693.23	8	855.4584	73.35	12.75	935.2125	0	935.2125
802	588681	48200	4242005	158	10615.99	8	849.2792	78.89	12.75	1005.8475	0	1005.8475
802	588681	48200	5082005	301	23817.16	8	1805.3728	80.18	12.75	1022.285	0	1022.285
802	588681	48200	5222005	252	20636.89	8	1650.9512	83.07	12.75	1059.1425	0	1059.1425
802	588681	48200	6052005	258	21574.16	8	1725.9328	76.64	12.75	977.16	0	977.16
802	588681	48200	6192005	170	9470.51	8	757.6408	69.81	12.75	890.0775	0	890.0775
802	588681	48200	7032005	185	12352.4	8	988.192	72.15	12.75	919.9125	0	919.9125
802	588681	48200	7172005	168	11598.27	8	927.8616	80.47	12.75	1025.9925	0	1025.9925
802	588681	48200	8132005	226	17579.84	8	1406.3072	80.54	12.75	1026.885	0	1026.885
802	588681	48200	8142005	136	14499	8	1159.92	70.08	12.75	893.52	0	893.52
802	588681	48200	8282005	133	11459.69	8	916.7752	74.98	12.75	955.995	0	955.995
802	588681	48200	9112005	124	15420.76	8	1233.6608	78.25	12.75	987.6875	0	987.6875
802	588681	48200	9252005	63	17465.98	8	1397.2784	80.21	12.75	1022.6775	0	1022.6775
802	588681	48200	10092005	116	29784.73	8	2382.7784	80.94	12.75	1031.985	0	1031.985
802	588681	48200	10232005	55	-1634.38	8	-130.7512	74.94	12.75	955.485	0	955.485
802	588681	48200	11062005	193	21902.61	8	1752.2088	85.13	12.75	1085.4075	0	1085.4075
802	588681	48200	12042005	145	19649.71	8	1571.9768	74.1	12.75	944.775	0	944.775
802	588681	48200	12312005	154	16112.11	8	1288.9688	77.38	12.75	986.595	0	986.595

## FY2007 (Calendar April 06-March 07)

str	dispersion file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
802	588681	48200	1142007	79	5784.78	8	462.78	72.61	12.75	925.775	0	925.78
802	588681	48200	1282007	67	12717.76	8	1017.42	67.31	12.75	858.2025	0	858.20
802	588681	48200	2112007	18	2791.49	8	223.32	74.44	13.75	1023.55	0	1,023.55
802	588681	48200	2252007	59	5355.47	8	428.44	69.24	13.75	952.05	0	952.05
802	588681	48200	3112007	31	2462.5	8	197.00	77.43	13.75	1064.6625	0	1,064.66
802	588681	48200	3262006	56	\$10,144.00	8	\$811.52	71.66	12.75	\$913.67	\$0.00	\$913.67
802	588681	48200	4082006	115	\$6,970.15	8	\$477.61	73.79	12.75	\$940.82	\$0.00	\$940.82
802	588681	48200	4232006	137	\$12,842.20	8	\$1,027.38	77.95	12.75	\$993.86	\$0.00	\$993.86
802	588681	48200	5072006	293	\$24,225.20	8	\$1,937.64	76.63	12.75	\$977.03	\$0.00	\$977.03
802	588681	48200	5212006	151	\$11,792.07	8	\$943.37	77.59	12.75	\$950.00	\$0.00	\$950.00
802	588681	48200	6042006	226	\$16,356.25	8	\$1,308.50	81.86	12.75	\$989.27	\$0.00	\$989.27
802	588681	48200	6182006	218	\$17,249.90	8	\$1,379.99	81.86	12.75	\$1,043.72	\$0.00	\$1,043.72
802	588681	48200	7012006	148	\$11,988.51	8	\$959.08	77.4	12.75	\$986.85	\$0.00	\$986.85
802	588681	48200	7152006	172	\$14,114.24	8	\$1,129.14	76.94	12.75	\$990.99	\$0.00	\$990.99
802	588681	48200	7302006	205	\$16,854.52	8	\$1,348.36	76.95	12.75	\$981.11	\$0.00	\$981.11
802	588681	48200	8132006	171	\$13,386.57	8	\$1,070.93	71.25	12.75	\$908.44	\$0.00	\$908.44
802	588681	48200	8272006	127	\$27,082.02	8	\$2,166.56	75.17	12.75	\$958.42	\$0.00	\$958.42

802	588681	48200	9102006	9232006	85	\$22,044.84	8	\$1,763.59	66	12.75	\$841.50	\$0.00	\$841.50	\$922.09	\$1,763.59
802	588681	48200	9242006	10072006	65	12207.75	8	978.62	83.1	12.75	1059.525	0	1,059.53	0.00	\$1,059.53
802	588681	48200	10082006	10212006	80	\$613.88	8	49.11	74.94	12.75	955.485	\$0.00	\$955.49	0.00	\$955.49
802	588681	48200	10222006	11042006	119	\$27,436.82	8	2194.95	72.96	12.75	930.24	\$0.00	\$930.24	1,264.71	\$2,194.95
802	588681	48200	11052006	11182006	132	\$18,693.48	8	1495.48	80.41	12.75	1025.2275	\$0.00	\$1,025.23	470.25	\$1,495.48
802	588681	48200	11192006	12022006	57	-\$2,459.39	8	-196.7512	75.31	12.75	960.2025	\$0.00	\$960.20	0.00	\$960.20
802	588681	48200	12032006	12162006	113	\$12,893.45	8	1031.476	74.28	12.75	947.07	\$0.00	\$947.07	84.41	\$1,031.48
802	588681	48200	12172006	12302006	142	\$15,928.86	8	1274.31	74.22	12.75	946.305	\$0.00	\$946.31	328.00	\$1,274.31
802	588681	48200	12312006	1132007	125	12690.38	8	1015.23	76.74	12.75	978.435	0	845.84	169.40	\$1,015.23

## Missed Draw Target 26 out of 52 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
802	0	58268	5222005	6042005	25	1757.45	8	140.596	30.19	12.75	384.9225	0	384.9225	0
802	0	58268	6052005	6182005	4	144.98	8	11.5984	7.9	12.75	100.725	0	100.725	0
802	0	58268	6192005	7022005	85	7903.63	8	632.2904	63.6	12.75	810.9	0	810.9	0
802	0	58268	7032005	7162005	151	9603.98	8	768.3164	79.52	12.75	1013.88	0	956.5	0
802	0	58268	7172005	7302005	163	9431.5	8	754.52	82.21	12.75	1048.1775	0	1048.1775	0
802	0	58268	7312005	8132005	152	16143.71	8	1291.4968	77.19	12.75	984.1725	0	984.1725	0
802	0	58268	8142005	8272005	89	7879.51	8	630.3608	69.85	12.75	890.5875	0	890.5875	0
802	0	58268	8282005	9102005	99	10652.29	8	852.1832	63.68	12.75	811.92	0	811.92	0
802	0	58268	9112005	9242005	46	5815.5	8	465.24	49.37	12.75	629.4675	0	629.4675	0
802	0	58268	9252005	10062005	69	9629.99	8	770.3992	49.55	12.75	631.7625	0	631.7625	0

## Missed Draw Target Every Pay Period

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
802	0	62027	11062005	11192005	124	9987.94	7	897.7558	42.05	12.75	536.1375	0	536.1375	161.6183
802	0	62027	12042005	12172005	94	12695.38	7	888.6766	44.82	12.75	571.455	0	571.455	317.2216
802	0	62027	12182005	12312005	125	17822.96	7	1233.6072	30.11	12.75	383.9025	0	383.9025	849.7047
802	0	62027	9112005	9242005	6	324.5	7	22.715	29.4	12.75	374.85	0	374.85	0
802	0	62027	9252005	10062005	68	10842.49	7	758.9743	67.28	12.75	857.82	0	857.82	0
802	0	62027	10092005	10222005	60	8599.97	7	601.9979	63.69	12.75	812.0475	0	812.0475	0
802	0	62027	10232005	11052005	74	7029.42	7	492.0594	50.6	12.75	645.15	0	645.15	0

## Missed Draw Target 4 out of 7 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
802	0	62750	1012006	1142006	55	3773.52	8	301.8916	76.86	12.75	979.965	0	859.475	0
802	0	62750	10092005	10222005	12	1021.95	8	81.756	78.26	12.75	897.815	0	997.815	0
802	0	62750	10232005	11052005	24	2158	8	172.64	76.85	12.75	979.8375	0	979.8375	0
802	0	62750	11062005	11192005	78	6306.08	8	504.4684	80.43	12.75	1025.4825	0	1025.4825	0
802	0	62750	12042005	12172005	30	3268.64	8	261.4912	74.45	12.75	949.2375	0	949.2375	0
802	0	62750	12182005	12312005	59	5988.18	8	479.8544	77.17	12.75	983.9175	0	983.9175	0

## Missed Draw Target Every Pay Period

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
802	0	63212	1012006	1142006	65	6170.77	8	493.6616	75.21	12.75	958.9275	0	880.6375
802	0	63212	1152006	1282006	83	6277.3	8	502.184	76.9	12.75	980.475	0	980.475
802	0	63212	1292006	2112006	22	1360.91	8	108.8728	52.96	12.75	667.59	0	667.59
802	0	63212	10232005	11052005	21	1446.98	8	115.7584	77.55	12.75	988.7625	0	988.7625
802	0	63212	11062005	11192005	119	11572.26	8	925.7808	73.36	12.75	935.34	0	935.34
802	0	63212	12042005	12172005	130	13723.4	8	1097.872	67.86	12.75	865.47	0	865.47
802	0	63212	12182005	12312005	114	8474.56	8	677.9648	77.6	12.75	989.4	0	989.4

## Missed Draw Target 6 out of 7 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
802	0	64775	1012006	1142006	19	1166.98	7.5	87.5235	66.66	12.75	849.915	0	729.425
802	0	64775	1292006	2112006	62	16529.11	7.5	1239.6833	48.81	12.75	622.3275	0	622.3275
802	0	64775	1152006	1282006	24	1103.51	7.5	82.76325	53.68	12.75	684.42	0	684.42
802	0	64775	2122006	2252006	20	3358.95	7.5	251.92125	34.18	12.75	435.795	0	435.795
802	0	64775	2262006	3112006	4	1583.5	8	127.48	45.5	12.75	580.125	0	580.125
802	0	64775	3122006	3252006	25	1878.29	8	150.2632	57.99	12.75	739.3725	0	739.3725
802	0	64775	3262006	4082006	24	1600.66	8	128.0528	58.89	12.75	750.8475	0	750.8475
802	0	64775	12042005	12172005	21	2164.5	7.5	162.3375	66.16	12.75	843.54	0	843.54
802	0	64775	12182005	12312005	46	3497.43	7.5	262.30725	54.59	12.75	696.0225	0	696.0225

## Missed Draw Target 8 out of 9 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
802	0	66857	1292006	2112006	12	663.47	8	53.0776	49.43	12.75	630.2325	0	630.2325
802	0	66857	2122006	2252006	106	9050.34	8	724.0272	76.54	12.75	975.885	0	975.885
802	0	66857	2262006	3112006	91	9632.07	8	770.5656	80.56	12.75	1027.14	0	1027.14
802	0	66857	3122006	3252006	103	9963	8	797.04	79.37	12.75	1011.9675	0	1011.9675
802	0	66857	3262006	4082006	114	12457.93	8	996.6344	78.93	12.75	1006.3575	0	1006.3575

## FY2007 (Calendar April 06-March 07)

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
802	0	66857	1142007	1272007	-1	-19	7	-1.33	8.88	12.75	113.22	0	113.22
802	0	66857	1282007	2102007	4	264.5	7	18.52	8.25	12.75	105.1875	0	105.19
802	0	66857	2112007	2242007	11	997.49	7	69.82	8.25	13.75	113.4375	0	113.44
802	0	66857	2252007	3102007	4	364.5	7	25.62	7.55	13.75	103.8125	0	103.81
802	0	66857	3112007	3242007	6	765.99	7	53.62	7.87	13.75	108.2125	0	108.21
802	0	66857	3262006	4082006	114	\$12,457.93	8	\$996.63	78.93	12.75	\$1,006.36	\$0.00	\$1,006.36
802	0	66857	4092006	4222006	178	\$20,546.30	8	\$1,643.70	80.9	12.75	\$1,031.48	\$0.00	\$1,031.48
802	0	66857	4232006	5062006	178	\$22,368.00	8	\$1,789.44	80.41	12.75	\$1,025.23	\$0.00	\$1,025.23
802	0	66857	5072006	5202006	289	\$24,298.41	8	\$1,943.62	83.46	12.75	\$1,064.12	\$0.00	\$1,064.12
802	0	66857	5212006	6032006	137	\$8,846.64	8	\$707.73	72.83	12.75	\$928.58	\$0.00	\$928.58
802	0	66857	6042006	6172006	156	\$12,330.97	8	\$986.48	77.69	12.75	\$990.55	\$0.00	\$990.55
802	0	66857	6182006	7012006	239	\$21,640.96	8	\$1,731.28	83.67	12.75	\$1,066.79	\$0.00	\$1,066.79
802	0	66857	7022006	7152006	180	\$14,203.10	8	\$1,136.25	81.37	12.75	\$1,037.47	\$0.00	\$1,037.47



802	0	66857	7162006	7292006	206	\$12,786.80	8	\$1,022.94	78.79	12.75	\$1,004.57	\$0.00	\$1,004.57	\$18.37	\$1,022.94
802	0	66857	7302006	8122006	137	\$8,457.09	7	\$692.00	50.71	12.75	\$646.55	\$0.00	\$646.55	\$0.00	\$646.55
802	0	66857	8132006	8262006	46	\$4,371.66	7	\$306.02	25.42	12.75	\$324.11	\$0.00	\$324.11	\$0.00	\$324.11
802	0	66857	8272006	9092006	23	\$2,878.50	7	\$201.50	16.17	12.75	\$206.17	\$0.00	\$206.17	\$0.00	\$206.17
802	0	66857	9102006	9232006	1	\$175.01	7	\$12.25	5.8	12.75	\$73.95	\$0.00	\$73.95	\$0.00	\$73.95
802	0	66857	9242006	10072006	17	658.5	7	46.10	7.92	12.75	100.98	0	100.98	0.00	\$100.98
802	0	66857	10082006	10212006	23	\$3,524.12	7	246.69	17.47	12.75	222.7425	\$0.00	\$222.74	23.95	\$246.69
802	0	66857	10222006	11042006	41	\$4,666.47	7	326.65	18.34	12.75	233.835	\$0.00	\$233.84	92.82	\$326.65
802	0	66857	11052006	11182006	36	\$3,369.73	7	235.88	16	12.75	204	\$0.00	\$204.00	31.88	\$235.88
802	0	66857	11192006	12022006	-1	-\$90.00	7	-6.3	8.00	12.75	102	\$0.00	\$102.00	0.00	\$102.00
802	0	66857	12032006	12162006	48	\$4,355.20	7	304.864	16.34	12.75	208.335	\$0.00	\$208.34	96.53	\$304.86
802	0	66857	12172006	12302006	15	\$831.43	7	58.20	8.55	12.75	109.0125	\$0.00	\$109.01	0.00	\$109.01
802	0	66857	12312006	1132007	6	331.51	7	23.21	14.45	12.75	184.2375	0	114.11	0.00	\$114.11

## Missed Draw Target 16 out of 26 Pay Periods

## FY2005

FY2006 (Calendar April 05-March 06)															Total		
str	sleeperson		start	end	units	net sales		Com %	Base Hrs		Hrly Total	Salary	Total Pay	Com \$ Pd	TOTAL PAY		
	file					sales	Com %		\$	HR Rate							
810	823342	20933	3272005	4092005	29	\$3,781.00	8	\$302.48	76.11	10.15	\$772.52	\$0.00	\$772.52	\$0.00	772.52		
810	823342	20933	4102005	4232005	59	\$4,386.95	8	\$350.96	84.17	10.15	\$854.33	\$0.00	\$854.33	\$0.00	854.33		
810	823342	20933	4242005	5072005	64	\$7,452.63	8	\$596.21	93.05	10.15	\$944.46	\$0.00	\$944.46	\$0.00	944.46		
810	823342	20933	5082005	5212005	155	\$21,506.19	8	\$1,720.50	95.11	10.15	\$965.37	\$0.00	\$965.37	\$0.00	965.37		
810	823342	20933	5222005	6042005	126	\$8,635.65	8	\$690.85	76.38	10.15	\$775.26	\$0.00	\$775.26	\$0.00	775.26		
810	823342	20933	6062005	6182005	133	\$16294.75	8	1303.58	83.19	10.15	844.3785	0	844.38	0.00	844.38		
810	823342	20933	6192005	7022005	128	\$16,231.77	8	\$1,298.54	75.23	10.15	\$763.58	\$0.00	\$763.58	\$0.00	763.58		
810	823342	20933	7032005	7162005	77	\$9,096.00	8	\$727.68	80.81	10.15	\$820.22	\$0.00	\$767.44	\$0.00	767.44		
810	823342	20933	7172005	7302005	77	\$9,283.66	8	\$742.69	78.05	10.15	\$782.21	\$0.00	\$792.21	\$0.00	792.21		

## FY2006 (Calendar April 05-March 06)

str	sleeperson file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Pay	Com \$ Pd	TOTAL PAY		
810	823342	20933	3272005	4092005	29	\$3,781.00	8	\$302.48	76.11	10.15	\$772.52	\$0.00	\$772.52	\$0.00	\$772.52
810	823342	20933	4102005	4232005	59	\$4,386.95	8	\$350.96	84.17	10.15	\$854.33	\$0.00	\$854.33	\$0.00	\$854.33
810	823342	20933	4242005	5072005	64	\$7,452.63	8	\$596.21	93.05	10.15	\$944.46	\$0.00	\$944.46	\$0.00	\$944.46
810	823342	20933	5082005	5212005	155	\$21,506.19	8	\$1,720.50	95.11	10.15	\$965.37	\$0.00	\$965.37	\$0.00	\$965.37
810	823342	20933	5222005	6042005	126	\$8,635.65	8	\$690.85	76.38	10.15	\$775.26	\$0.00	\$775.26	\$0.00	\$775.26
810	823342	20933	6062005	6182005	133	16,294.75	8	1,303.58	83.19	10.15	844.3785	0	844.38	0.00	844.38
810	823342	20933	6192005	7022005	128	\$16,231.77	8	\$1,298.54	75.23	10.15	\$763.58	\$0.00	\$763.58	\$0.00	\$763.58
810	823342	20933	7032005	7162005	77	\$8,096.00	8	\$727.66	80.81	10.15	\$820.22	\$0.00	\$767.44	\$0.00	\$767.44
810	823342	20933	7172005	7302005	77	\$9,283.66	8	\$742.69	78.05	10.15	\$792.21	\$0.00	\$792.21	\$0.00	\$792.21

810	823342	20933	7312005	8132005	69	\$6,794.01	8	\$543.52	70.33	10.15	\$713.85	\$0.00	\$713.85	\$0.00	713.85
810	823342	20933	8142005	8272005	24	\$1,937.90	8	\$155.03	41.04	10.15	416.566	0	416.56	0.00	416.56

### Missed Draw Target 20 out of 26 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	54730	7032005	7162005	88	\$4,498.71	7	\$314.91	56.74	10.15	\$575.91	\$524.14	\$0.00
810	0	54730	11062005	11192005	53	\$6,424.49	7	\$449.71	56.89	10.15	\$577.4335	0	\$62.25
810	0	54730	3272005	4092005	43	\$3,542.00	7	\$247.94	55.05	10.15	\$558.76	\$0.00	\$558.76
810	0	54730	4102005	4232005	99	\$6,257.23	7	\$438.01	52.76	10.15	\$535.51	\$0.00	\$535.51
810	0	54730	4242005	5072005	46	\$3,526.76	7	\$246.87	42.59	10.15	\$432.29	\$0.00	\$432.29
810	0	54730	5082005	5212005	73	\$4,819.08	7	\$337.34	44.98	10.15	\$456.55	\$0.00	\$456.55
810	0	54730	5222005	6042005	80	\$4,863.01	7	\$340.41	33.44	10.15	\$339.42	\$0.00	\$339.42
810	0	54730	6052005	6182005	90	\$1,286.67	7	\$59.069	35.09	10.15	\$356.1635	0	\$56.16
810	0	54730	6192005	7022005	120	\$7,490.06	7	\$524.30	50.96	10.15	\$517.24	\$0.00	\$517.24
810	0	54730	7172005	7302005	72	\$4,926.52	7	\$344.86	36.52	10.15	\$370.68	\$0.00	\$370.68
810	0	54730	7312005	8132005	93	\$5,449.86	7	\$381.49	47.63	10.15	\$483.44	\$0.00	\$483.44
810	0	54730	8142005	8272005	76	\$6,683.25	7	\$467.83	40.09	10.15	406.9135	0	406.91
810	0	54730	8282005	9102005	100	\$8,631.98	7	\$604.24	60.85	10.15	617.6275	0	617.63
810	0	54730	9112005	9242005	106	\$8,455.10	7	\$591.86	67.66	10.15	686.749	0	686.75
810	0	54730	9252005	10082005	66	\$7,150.50	7	\$500.54	59.56	10.15	604.534	0	604.53
810	0	54730	10092005	10222005	49	\$4,598.98	7	\$321.93	58.7	10.15	\$595.805	0	\$595.81
810	0	54730	10232005	11052005	32	\$3,351.00	7	\$234.57	52.41	10.15	\$531.9615	0	\$531.96
810	0	54730	12042005	12172005	17	\$1,796.48	7	125.75	64.09	10.15	650.5135	0	650.51

### FY2005 (Calendar April 04-March 05)

### FY2005

str	slsperson	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	Com \$ Pd	TOTAL PAY
810	0	54730	1022005	1152005	34	2,126.89	7	148.88	38.82	10.15	\$394.023	0.00	353.42	0.00	353.42
810	0	54730	1162005	1292005	35	2,703.05	7	189.21	37.21	10.15	377.6815	0.00	377.68	0.00	377.68
810	0	54730	1302005	2122005	20	2,627.42	7	183.92	36.29	10.15	368.3435	0.00	368.34	0.00	368.34
810	0	54730	2132005	2262005	24	2,588.45	7	181.19	29.14	10.15	295.771	0.00	295.77	0.00	295.77
810	0	54730	2272005	3122005	39	2,139.27	7	149.75	59.27	10.15	601.5805	0.00	601.59	0.00	601.59
810	0	54730	3132005	3262005	15	907.50	7	63.53	32.57	10.15	330.5855	0.00	330.59	0.00	330.59
810	0	54730	12192004	1012005	142	10,408.72	7	728.61	134.13	10.15	1361.4195	0.00	1,361.42	0.00	1,361.42
810	0	54730	12192004	1012005	142	10,408.72	7	728.61	134.13	10.15	1361.4195	0.00	1,361.42	0.00	1,361.42

### Missed Draw Target Every Pay Period

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	55052	3272005	4092005	44	\$3,032.51	8	\$242.80	37.64	10.15	\$382.05	\$0.00	\$382.05
810	0	55052	4102005	4232005	19	\$1,115.99	8	\$89.28	37.9	10.15	\$384.69	\$0.00	\$384.69
810	0	55052	4242005	5072005	26	\$1,662.50	8	\$133.00	21.03	10.15	\$213.45	\$0.00	\$213.45
810	0	55052	5082005	5212005	30	\$1,538.35	8	\$123.07	21.48	10.15	\$218.02	\$0.00	\$218.02
810	0	55052	5222005	6042005	17	\$793.45	8	\$63.48	14.66	10.15	\$148.80	\$0.00	\$148.80



810	0	55791	8282005	9102005	79	\$5,478.56	8	\$438.28	33.06	10.15	335.559	0	335.56	0.00
810	0	55791	12182005	12312005	9	\$595.43	8	47.63	36.57	10.15	371.19	0.00	371.19	0.00

## FY2005

str	elisperson ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	TOTAL PAY
810	0	55791	2272005	3122005	52	3,686.95	8	294.96	75.16	12	901.92	0.00	901.92
810	0	55791	3132005	3262005	77	4,344.48	8	347.56	53.32	12	639.84	0.00	639.84

## Missed Draw Target 17 out of 19 Pay Periods

str	elisperson file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	57865	6062005	6182005	205	13483.61	8	1078.6886	78.88	12	946.56	0
810	0	57865	6062005	6042005	193	\$10,973.17	8	\$877.85	80.13	12	\$961.56	\$0.00
810	0	57865	6192005	7022005	192	\$9,927.34	8	\$794.19	78.88	10.15	\$800.63	\$0.00
810	0	57865	7032005	7162005	98	\$8,452.33	8	\$676.19	80.36	10.15	\$815.65	\$0.00
810	0	57865	7172005	7302005	102	\$10,971.54	8	\$877.72	74.01	10.15	\$751.20	\$0.00
810	0	57865	7312005	8132005	91	\$7,945.23	8	\$635.62	75.68	10.15	\$768.15	\$0.00
810	0	57865	8142005	8272005	90	\$6,329.38	8	\$506.35	45.56	10.15	462.434	0
810	0	57865	8282005	9102005	7	\$1,280.00	8	\$102.40	13.42	10.15	136.213	0

## Missed Draw Target 7 out of 8 Pay Periods

str	elisperson file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	58388	7032005	7162005	55	\$2,404.22	8	\$192.34	49.4	10.15	\$501.41	\$0.00
810	0	58388	11062005	11192005	-1	-\$39.99	8	-\$3.20	0	0	0	0.00
810	0	58388	5222005	6042005	2	\$38.00	8	\$3.04	8.6	12	\$103.20	\$0.00
810	0	58388	6062005	6182005	77	\$846.34	8	467.7072	63.38	12	760.56	0
810	0	58388	6182005	7022005	112	\$5,074.07	8	\$405.93	65.71	12	\$788.52	\$0.00
810	0	58388	7172005	7302005	114	\$5,444.72	8	\$435.58	58.79	10.15	\$596.72	\$0.00
810	0	58388	7312005	8132005	116	\$7,206.58	8	\$576.53	66.88	10.15	\$678.83	\$0.00
810	0	58388	8142005	8272005	149	\$9,797.02	8	\$783.76	76.63	10.15	777.7945	0
810	0	58388	8282005	9102005	114	\$10,303.36	8	\$824.27	76.42	10.15	775.663	0
810	0	58388	9112005	9242005	-5	-\$274.46	8	-\$21.96	0	0	0	0.00

## Missed Draw Target Every Pay Period

str	elisperson file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	58980	6192005	7022005	12	\$569.48	8	\$47.16	31.5	12	\$378.00	\$0.00
810	0	58980	7032005	7162005	38	\$3,083.44	8	\$246.68	27.73	12	\$332.76	\$0.00
810	0	58980	7172005	7302005	31	\$3,154.99	8	\$252.40	31.33	12	\$375.96	\$0.00

## Missed Draw Target Every Pay Period

## FY2005

str	slsperson	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	TOTAL PAY
810	0	55052	1022005	1152005	10	1,117.98	8	89.44	13.42	10.15	136.213	0.00	0.00	136.21
810	0	55052	1162005	1292005	82	6,303.90	8	504.31	58.15	10.15	590.2225	0.00	0.00	590.22
810	0	55052	1302005	2122005	57	5,385.67	8	426.85	30.17	10.15	306.2255	0.00	0.00	426.85
810	0	55052	2132005	2262005	45	3,034.03	8	242.72	26.75	10.15	271.5125	0.00	0.00	271.51
810	0	55052	2272005	3122005	36	2,133.52	8	170.68	31.77	10.15	322.4655	0.00	0.00	322.47
810	0	55052	3132005	3262005	21	1,170.01	8	93.60	20	10.15	203	0.00	0.00	203.00

## Missed Draw Target 10 out of 11 Pay Periods

str	slsperson	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	TOTAL PAY
810	0	55671	3272005	4082005	59	\$3,985.00	8	\$318.80	65.27	10.15	\$662.49	\$0.00	\$0.00	\$662.49
810	0	55671	4102005	4232005	94	\$7,455.43	8	\$596.43	74.6	10.15	\$757.19	\$0.00	\$0.00	\$757.19
810	0	55671	4242005	5072005	85	\$6,448.93	8	\$515.91	65.7	10.15	\$666.96	\$0.00	\$0.00	\$666.96
810	0	55671	5082005	5212005	180	\$9,835.83	8	\$786.87	59.8	10.15	\$606.97	\$0.00	\$0.00	\$606.97
810	0	55671	5222005	6042005	83	\$4,400.78	8	\$352.06	56.35	10.15	\$571.95	\$0.00	\$0.00	\$571.95

## FY2005

str	slsperson	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	TOTAL PAY
810	0	55671	2132005	2262005	11	1,046.99	8	83.76	24.47	12	293.64	0.00	0.00	293.64
810	0	55671	2272005	3122005	108	7,860.35	8	631.23	76.01	12	912.12	0.00	0.00	912.12
810	0	55671	3132005	3262005	83	5,868.97	8	471.12	99.83	12	1197.96	0.00	0.00	1,197.96

## Missed Draw Target Every Pay Period

str	slsperson	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	TOTAL PAY
810	0	55791	1012006	1142006	114	\$9,993.53	8	799.48	76.34	10.15	774.851	0	734.25	65.23
810	0	55791	2122006	2252006	14	\$1,058.99	8	84.72	8.15	10.15	82.7225	0	82.72	2.00
810	0	55791	5082005	5212005	203	\$12,184.28	8	\$974.74	74.34	10.15	\$754.55	\$0.00	\$754.55	\$220.19
810	0	55791	7032005	7162005	175	\$8,753.54	8	\$700.28	70.14	10.15	\$711.92	\$0.00	\$659.65	\$0.00
810	0	55791	1152006	1282006	32	\$1,483.32	8	118.67	30.01	10.15	304.6015	0	304.60	0.00
810	0	55791	1282006	2112006	2	\$152.97	8	12.24	5.35	10.15	54.3025	0	54.30	0.00
810	0	55791	3272005	4092005	67	\$5,200.97	8	\$416.08	71.76	10.15	\$728.36	\$0.00	\$728.36	\$0.00
810	0	55791	4102005	4232005	81	\$3,726.47	8	\$298.12	75.21	10.15	\$763.38	\$0.00	\$763.38	\$0.00
810	0	55791	4242005	5072005	167	\$12,413.09	8	\$993.05	82.99	10.15	\$842.35	\$0.00	\$842.35	\$0.00
810	0	55791	5222005	6042005	137	\$8,641.76	8	\$691.34	81.35	10.15	\$825.70	\$0.00	\$825.70	\$0.00
810	0	55791	6052005	6182005	165	\$641.04	8	771.2832	70.79	10.15	718.5185	0	718.52	0.00
810	0	55791	6192005	7022005	104	\$4,526.29	8	\$362.10	65.73	10.15	\$667.16	\$0.00	\$667.16	\$0.00
810	0	55791	7172005	7302005	132	\$7,106.66	8	\$568.53	85.81	10.15	\$870.97	\$0.00	\$870.97	\$0.00
810	0	55791	7312005	8132005	215	\$12,746.49	8	\$1,019.72	80.4	10.15	\$816.06	\$0.00	\$816.06	\$0.00
810	0	55791	8142005	8272005	76	\$5,181.79	8	\$414.54	42.08	10.15	427.112	0	427.11	0.00

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	59038	7032005	7162005	98	\$5,172.60	8	\$413.81	68.03	12	\$816.36	\$756.36	\$0.00
810	0	59038	7172005	7302005	81	\$16,856.80	8	\$1,348.54	48.7	8	\$389.60	\$0.00	\$958.94
810	0	59038	8282005	9102005	50	\$8,465.49	8	\$678.84	29	12	348	0	348.00
810	0	59038	11062005	11192005	42	\$8,745.26	8	\$699.62	34.62	12	415.44	0	415.44
810	0	59038	6192005	7022005	22	\$1,330.93	8	\$106.47	38.47	12	\$451.64	\$0.00	\$451.64
810	0	59038	9112005	9242005	20	\$2,274.45	8	\$181.96	29.08	12	\$348.96	0	\$348.96
810	0	59038	9252005	10082005	3	\$279.00	8	\$22.32	35.93	12	431.16	0	431.16
810	0	59038	10092005	10222005	25	\$1,266.05	8	\$101.52	44.1	12	\$29.2	0	\$29.20
810	0	59038	10232005	11052005	29	\$2,213.99	8	\$177.12	30.39	12	\$364.68	0	\$364.68
810	0	59038	12042005	12172005	18	\$811.25	8	\$4.90	20.97	12	251.64	0	251.64

## Missed Draw Target 7 out of 10 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	59211	7032005	7162005	112	\$4,975.18	8	\$398.01	78.4	12	\$940.80	\$0.00	\$880.80
810	0	59211	6192005	7022005	10	\$377.94	8	\$30.24	32.6	12	\$391.20	\$0.00	\$391.20
810	0	59211	7172005	7302005	125	\$7,445.94	8	\$595.68	80.98	12	\$971.76	\$0.00	\$971.76
810	0	59211	7312005	8132005	32	\$1,835.82	8	\$146.87	12.82	12	\$151.44	\$0.00	\$151.44
810	0	59211	8282005	9102005	-2	-\$44.49	8	-\$3.56	0	0	0	0	0.00

## Missed Draw Target Every Pay Period

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	60203	12182005	12312005	177	\$23,520.20	8	\$1,881.62	98.74	12	\$1,184.88	0.00	\$1,184.88
810	0	60203	7312005	8132005	35	\$1,773.35	8	\$141.87	40.71	12	\$468.52	\$0.00	\$468.52
810	0	60203	8142005	8272005	44	\$3,771.14	8	\$301.69	79.59	12	\$955.08	0	\$955.08
810	0	60203	8282005	9102005	27	\$3,264.75	8	\$261.18	73.71	12	\$884.52	0	\$884.52
810	0	60203	9112005	9242005	28	\$6,002.25	8	\$480.18	68.63	12	\$823.56	0	\$823.56
810	0	60203	9252005	10082005	60	\$9,287.15	8	\$742.97	76.77	10.5	\$806.085	0	\$806.09
810	0	60203	10092005	10222005	50	\$7,083.95	8	\$566.72	86.18	10.5	\$904.89	0	\$904.89
810	0	60203	10232005	11052005	39	\$6,533.85	8	\$522.71	69.65	12	\$835.8	0	\$835.80
810	0	60203	11062005	11192005	45	\$4,263.77	8	\$341.10	29.79	12	\$357.48	0	\$357.48
810	0	60203	12042005	12172005	130	\$11,650.28	8	\$93.02	83.47	12	\$1001.64	0	\$1,001.64

## Missed Draw Target 9 out of 10 Times

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
810	0	61622	2122006	2252006	50	\$6,433.43	8	\$514.67	48.34	10.15	\$490.651	0	\$490.65
810	0	61622	9112005	9242005	154	\$13,681.28	8	\$1,094.50	74.07	12	\$888.84	0	\$888.84
810	0	61622	10232005	11052005	55	\$8,415.94	8	\$673.28	47.27	12	\$567.24	0	\$567.24
810	0	61622	11062005	11192005	121	\$10,842.23	8	\$867.38	55.53	12	\$666.36	0	\$666.36
810	0	61622	12042005	12172005	114	\$13,090.48	8	\$1047.24	54.19	12	\$650.28	0	\$650.28
810	0	61622	1012006	1142006	11	-\$1,169.19	8	-\$93.54	16.37	10.15	\$166.1555	0	\$166.16
810	0	61622	1152006	1282006	36	\$2,389.03	8	\$191.12	55.45	10.15	\$562.8175	0	\$562.82
810	0	61622	1292006	2112006	39	\$4,797.12	8	\$383.77	40.96	10.15	\$415.744	0	\$415.74

810	0	61622	2262006	3112006	46	\$4,299.48	8	343.96	53.21	10.15	540.0815	0	540.08	0.00
810	0	61622	8282005	9102005	17	\$1,611.35	8	\$128.91	38.7	12	464.4	0	464.40	0.00
810	0	61622	9252005	10082005	71	\$6,177.50	8	\$494.20	75.83	10.15	769.6745	0	769.67	0.00
810	0	61622	10092005	10222005	75	\$7,288.48	8	\$581.48	61.92	10.15	628.488	0	628.48	0.00
810	0	61622	12182005	12312005	52	\$6,818.89	8	545.51	51.27	12	615.24	0.00	615.24	0.00

### Missed Draw Target 8 out of 13 Pay Periods

str	slisperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
810	0	61837	1012006	1142006	-2	-\$153.75	8	-12.30	0	0	0	0.00	0.00	0.00
810	0	61837	9112005	9242005	76	\$6,246.47	8	\$499.72	75.77	12	909.24	0	909.24	0.00
810	0	61837	9252005	10082005	62	\$4,888.94	8	\$391.20	80.28	12	963.36	0	963.36	0.00
810	0	61837	10092005	10222005	55	\$7,428.47	8	\$594.28	78.19	10.15	793.6285	0	793.63	0.00
810	0	61837	10232005	11052005	64	\$5,288.98	8	\$423.20	70.67	12	848.04	0	848.04	0.00
810	0	61837	11062005	11192005	105	\$8,782.21	8	\$702.58	64.89	12	778.68	0	778.68	0.00

### Missed Draw Target Every Pay Period

str	slisperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
810	0	61843	12042005	12172005	43	\$4,736.52	8	378.92	26.33	10.15	267.2495	0	267.25	111.67
810	0	61843	9112005	9242005	31	\$2,900.98	8	\$232.08	39.19	12	470.28	0	470.28	0.00
810	0	61843	9252005	10082005	29	\$2,633.50	8	\$210.68	28.78	12	345.36	0	345.36	0.00
810	0	61843	10092005	10222005	23	\$2,181.99	8	\$174.56	26.8	10.15	272.02	0	272.02	0.00
810	0	61843	10232005	11052005	16	\$1,039.49	8	\$83.16	25.75	10.15	261.3625	0	261.36	0.00
810	0	61843	11062005	11192005	1	-\$54.06	8	-\$4.32	8.63	10.15	87.5945	0	87.59	0.00

### Missed Draw Target 5 out of 6 Pay Periods

str	slisperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
810	0	66464	1012006	1142006	54	\$4,065.38	8	325.23	73.22	12	878.64	0	806.64	0.00
810	0	66464	1152006	1282006	71	\$5,787.65	8	463.01	81.62	12	979.44	0	979.44	0.00
810	0	66464	1292006	2112006	83	\$8,416.67	8	673.33	80.36	12	964.32	0	964.32	0.00
810	0	66464	2122006	2252006	75	\$5,998.31	8	479.86	71.5	12	858	0	858.00	0.00
810	0	66464	2262006	3112006	49	\$6,019.46	8	481.56	41.3	12	495.6	0	495.60	0.00

### Missed Draw Target Every Pay Period

str	slisperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
810	0	66587	1152006	1282006	98	\$16,702.20	8	1336.18	92.29	12	1107.48	0	1,107.48	228.70
810	0	66587	1292006	2112006	51	\$8,146.80	8	651.74	74.19	12	890.28	0	890.28	0.00
810	0	66587	2122006	2252006	28	\$2,418.42	8	193.47	71.91	12	862.92	0	862.92	0.00
810	0	66587	2262006	3112006	47	\$5,542.73	8	443.42	77.6	12	931.2	0	931.20	0.00
810	0	66587	3122006	3252006	68	\$9,018.00	8	721.44	67.05	12	804.6	0	804.60	0.00
810	0	66587	3262006	4082006	41	\$5,639.50	8	451.16	79.43	12	953.16	0	953.16	0.00

FY2007 (Calendar April 06-March 07)

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Base Pay	Com \$ Pd Total Pay
810	0	66587	3262006	4082006	41	\$5,639.50	8	\$451.16	79.43	12	\$953.16	\$0.00	\$953.16
810	0	66587	4092006	4222006	65	\$9,726.15	8	\$778.09	82.42	10.15	\$836.56	\$0.00	\$836.56
810	0	66587	4232006	5062006	81	\$9,876.50	8	\$790.12	79.3	10.15	\$804.90	\$0.00	\$804.90
810	0	66587	5072006	5202006	134	\$18,899.23	8	\$1,511.73	84.63	10.15	\$858.99	\$0.00	\$858.99
810	0	66587	5212006	6032006	81	\$9,971.35	8	\$797.71	88.09	10.15	\$894.11	\$0.00	\$894.11

### Missed Draw Target 9 out of 11 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
817	0	60706	8142005	8272005	61	\$3,957.70	8	\$316.62	77.06	12	\$24.72	0.00	(608.10)
817	0	60706	8282005	9102005	59	\$7,835.42	8	\$626.83	59	12	708	0.00	(81.17)
817	0	60706	9112005	9242005	35	\$3,240.99	8	\$259.28	70.08	12	\$84.96	0.00	(581.68)
817	0	60706	9252005	10082005	20	\$4,192.01	8	\$335.36	75.91	12	\$910.92	0.00	(575.56)
817	0	60706	10092005	10222005	32	\$5,014.99	8	\$401.20	65.76	12	789.12	0.00	0.00
817	0	60706	10232005	11052005	12	\$1,417.99	8	\$113.44	68.73	12	\$24.76	0.00	0.00
817	0	60706	11062005	11192005	52	\$4,847.47	8	\$387.80	47.03	10.15	\$477.3545	0.00	0.00

### Missed Draw Target Every Pay Period

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd
831	0	50964	5082005	5212005	95	\$12,115.30	7	\$648.07	28.2	10.15	\$286.23	\$0.00	\$286.23
831	0	50964	7032005	7162005	-2	-\$97.49	7	-\$6.82	0	0	\$0.00	\$0.00	\$0.00
831	0	50964	3272005	4092005	4	\$553.50	7	\$38.75	16.42	10.15	\$166.66	\$0.00	\$166.66
831	0	50964	4102005	4232005	53	\$5,060.39	7	\$354.23	28.26	10.15	\$286.84	\$0.00	\$286.84
831	0	50964	4242005	5072005	42	\$5,120.90	7	\$358.46	29.92	10.15	\$303.69	\$0.00	\$303.69
831	0	50964	5222005	6042005	47	\$4,012.90	7	\$280.90	36.8	10.15	\$373.52	\$0.00	\$373.52

### FY2005

str	slsperson	ID	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Pay	Com \$ Pd TOTAL PAY
831	0	50964	1022005	1152005	62	\$6,515.49	7	\$456.08	44.4	12	\$532.8	0.00	\$512.50
831	0	50964	1162005	1292005	40	\$3,229.74	7	\$226.08	35.69	10.15	\$362.2535	0.00	\$362.25
831	0	50964	1302005	2122005	71	\$4,894.39	7	\$342.61	43.68	10.15	\$443.352	0.00	\$443.35
831	0	50964	2132005	2262005	73	\$6,906.14	7	\$483.43	37.99	10.15	\$385.5985	0.00	\$385.60
831	0	50964	2272005	3122005	35	\$4,350.43	7	\$304.53	27.84	10.15	\$282.576	0.00	\$282.58
831	0	50964	3132005	3262005	35	\$2,856.00	7	\$200.06	28.45	10.15	\$289.9175	0.00	\$289.92
831	0	50964	9122004	9252004	54	\$5,524.25	7	\$386.70	50.61	12	\$607.32	0.00	\$607.32
831	0	50964	9262004	10092004	85	\$9,408.00	7	\$658.63	46.32	12	\$555.84	0.00	\$555.84
831	0	50964	10102004	10232004	41	\$7,533.00	7	\$527.31	35.82	12	\$429.84	0.00	\$429.84
831	0	50964	10242004	11062004	44	\$2,496.99	7	\$174.79	26.91	12	\$322.92	0.00	\$322.92
831	0	50964	11072004	11202004	58	\$5,898.15	7	\$412.94	29.77	12	\$357.24	0.00	\$357.24

Total  
BASE



831	0	50964	11212004	12042004	71	10,033.28	7	702.33	46.65	12	559.8	0.00	559.80	50.10	609.90
831	0	50964	12052004	12182004	52	6,166.49	7	431.65	19.6	12	235.2	0.00	235.20	196.45	431.65
831	0	50964	12192004	1012005	188	20,548.36	7	1,438.39	75.88	12	910.56	0.00	910.56	527.83	1,438.39

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str	slip/person	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
831	0	50964	3272005	4092005	4	\$553.50	7	\$38.75	16.42	10.15	\$166.66	\$0.00	\$166.66	\$0.00
831	0	50964	4102005	4232005	53	\$5,060.39	7	\$354.23	28.26	10.15	\$286.84	\$0.00	\$286.84	\$0.00
831	0	50964	4242005	5072005	42	\$5,120.90	7	\$358.46	29.92	10.15	\$303.69	\$0.00	\$303.69	\$0.00
831	0	50964	5082005	5212005	95	\$12,115.30	7	\$848.07	28.2	10.15	\$286.23	\$0.00	\$286.23	\$368.33
831	0	50964	5222005	6042005	47	\$4,012.90	7	\$280.90	36.8	10.15	\$373.52	\$0.00	\$373.52	\$0.00

## Missed Draw Target 13 out of 19 Pay Periods

str	slip/person	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
836	0	53604	7032005	7162005	156	\$7,843.73	8	\$627.50	77.45	10.15	\$786.12	\$0.00	\$751.10	\$0.00
836	0	53604	8282005	9102005	212	\$12,733.84	8	\$1,018.71	75.7	10.15	768.355	0	768.36	148.05
836	0	53604	10232005	11052005	92	\$5,331.35	8	\$426.51	70.93	10.15	719.9395	0	7.99	0.00
836	0	53604	11062005	11192005	205	\$12,573.65	8	\$1,005.89	72.68	10.15	737.702	0	737.70	268.19
836	0	53604	12042005	12172005	120	\$10,432.99	8	\$834.64	54.04	10.15	548.506	0	548.51	266.13
836	0	53604	3272005	4092005	85	\$5,886.48	8	\$470.92	77.79	10.15	\$789.57	\$0.00	\$789.57	\$0.00
836	0	53604	4102005	4232005	89	\$6,013.16	8	\$481.05	78.66	10.15	\$798.40	\$0.00	\$798.40	\$0.00
836	0	53604	4242005	5072005	110	\$6,701.88	8	\$536.15	80.07	10.15	\$812.71	\$0.00	\$812.71	\$0.00
836	0	53604	5082005	5212005	243	\$10,659.70	8	\$852.78	78.3	10.15	\$794.75	\$0.00	\$794.75	\$0.00
836	0	53604	5222005	6042005	206	\$8,148.16	8	\$731.85	78.23	10.15	\$794.03	\$0.00	\$794.03	\$0.00
836	0	53604	6052005	6182005	310	18,487.47	8	1,478.9976	78.84	10.15	800.226	0	800.23	0.00
836	0	53604	6192005	7022005	256	\$14,262.72	8	\$1,141.02	81.5	10.15	\$827.23	\$0.00	\$827.23	\$0.00
836	0	53604	7172005	7302005	173	\$7,306.35	8	\$584.51	77.19	10.15	\$783.48	\$0.00	\$783.48	\$0.00
836	0	53604	7312005	8132005	272	\$15,696.25	8	\$1,255.86	84.89	10.15	\$861.63	\$0.00	\$861.63	\$0.00
836	0	53604	8142005	8272005	202	\$11,864.74	8	\$950.78	75	10.15	761.25	0	761.25	0.00
836	0	53604	9112005	9242005	71	\$6,481.92	8	\$518.55	73.94	10.15	750.491	0	750.49	0.00
836	0	53604	9252005	10082005	71	\$6,619.32	8	\$529.55	77.72	10.15	788.858	0	788.86	0.00
836	0	53604	10092005	10222005	89	\$6,595.57	8	\$527.65	79.97	10.15	811.6955	0	811.70	0.00

## Missed Draw Target 15 out of 18 Pay Periods

str	slip/person	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
873	899749	13779	4102005	4232005	3	\$285.00	7.5	\$21.38	14.52	10.15	\$147.38	\$0.00	\$147.38	\$0.00
873	899749	13779	10092005	10222005	6	\$379.99	7.5	\$28.50	7.1	10.15	72.065	0	72.07	0.00
873	899749	13779	10232005	11052005	2	\$450.00	7.5	\$33.75	6.45	10.15	65.4675	0	65.47	0.00

## Missed Draw Target 3 out of 4 Pay Periods

str	slip/person	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total	Salary	Total Pay	Com \$ Pd
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873	0	59208	7032005	7162005	151	\$10,073.08	8	\$605.85	78.55	12	\$942.60	\$0.00	\$900.98	\$0.00
873	0	59208	7312005	8132005	173	\$16,132.05	8	\$1,290.56	70.39	12	\$844.68	\$0.00	\$844.68	\$445.88
873	0	59208	8142005	8272005	175	\$14,761.55	8	\$1,180.92	67.28	12	\$807.36	0	\$807.36	\$73.56
873	0	59208	9252005	10082005	81	\$10,811.45	8	\$864.92	60.18	10.15	\$610.624	0	\$610.62	236.57
873	0	59208	11062005	11192005	91	\$11,271.31	8	\$901.70	56.39	10.15	\$572.3585	0	\$572.36	235.80
873	0	59208	6192005	7022005	33	\$1,911.07	8	\$152.89	37.3	12	\$447.60	\$0.00	\$447.60	\$0.00
873	0	59208	7172005	7302005	195	\$11,318.82	8	\$905.51	78.01	12	\$936.12	\$0.00	\$936.12	\$0.00
873	0	59208	8282005	9102005	86	\$8,709.80	8	\$696.78	68.68	10.15	\$697.102	0	\$697.10	0.00
873	0	59208	9112005	9242005	77	\$7,619.51	8	\$609.56	61.77	10.15	\$626.9655	0	\$626.97	0.00
873	0	59208	10092005	10222005	60	\$5,721.99	8	\$457.76	52.2	10.15	\$529.83	0	\$529.83	0.00
873	0	59208	10232005	11052005	45	\$5,343.19	8	\$427.46	44.23	10.15	\$448.9345	0	\$448.93	0.00

## Missed Draw Target 7 out of 11 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	
873	0	63298	12042005	12172005	127	\$15,088.58	8	\$1,207.09	71.05	12	\$852.6	0	\$852.60	\$54.49
873	0	63298	12182005	12312005	165	\$16,468.71	8	\$1,317.50	84.01	12	\$1,008.12	0.00	\$1,008.12	\$308.38
873	0	63298	1012006	1142006	0	-\$283.02	8	-\$22.64	7.05	12	\$4.6	0	\$4.60	0.00
873	0	63298	10232005	11052005	16	\$1,579.47	8	\$126.36	61.91	12	\$742.92	0	\$742.92	0.00
873	0	63298	11062005	11192005	44	\$6,798.34	8	\$543.87	45.63	12	\$547.56	0	\$547.56	0.00

## Missed Draw Target 3 out of 5 Pay Periods

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Total Pay	Com \$ Pd	
873	0	66374	3262006	4082006	50	\$6,325.50	7	582.79	31.51	10.15	\$119,8265	0	\$319.83	262.96
873	0	66374	12182005	12312005	104	\$13,203.76	7	924.26	49.63	12	595.56	0.00	595.56	328.70
873	0	66374	1012006	1142006	40	\$2,764.88	7	193.54	27.61	12	331.32	0	331.32	0.00
873	0	66374	1282006	2112006	57	\$6,071.96	7	425.04	39.9	12	478.8	0	478.80	0.00
873	0	66374	2122006	2252006	44	\$3,992.41	7	279.47	45.15	12	541.8	0	541.80	0.00
873	0	66374	2262006	3112006	31	\$6,713.54	7	469.95	44.07	12	528.84	0	528.84	0.00
873	0	66374	3122006	3252006	26	\$3,538.01	7	247.6607	40.46	10.15	410.669	0	410.67	0.00

## FY2007 (Calendar April 06-March 07)

str	slsperson	file	start	end	units	net sales	Com %	Com \$	Base Hrs	HR Rate	Hrly Total Salary	Base Pay	Com \$ Pd	Total Pay
873	0	66374	3262006	4082006	50	\$6,325.50	7	\$82.79	31.51	10.15	\$319.83	\$0.00	\$319.83	\$582.79
873	0	66374	4092006	4222006	39	\$4,228.46	7	\$295.99	21.6	10.15	\$219.24	\$0.00	\$219.24	\$295.99

## Missed Draw Target 5 out of 9 Pay Periods



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**EXHIBIT 101.**

STATE OF CALIFORNIA

PETE WILSON, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS

**DIVISION OF LABOR STANDARDS ENFORCEMENT**

**LEGAL SECTION**

455 Golden Gate Avenue, Room 3166  
San Francisco, CA 94102  
(415) 703-4180

H. THOMAS CADELL, JR., *Chief Counsel*



February 7, 1994

Ned A. Fine, Esq.  
Fisher & Phillips  
Three Lagoon Drive, Suite 345  
Redwood City, CA 94065-1567

**Re: Overtime Exemption For Service Advisors**

Dear Mr. Fine:

Thank you for your letter of January 17, 1994, seeking an ~~opinion regarding the appropriateness of utilizing the overtime exemption for commissioned salespeople available in IWC Orders 4 and 9.~~

As we discussed many times in the past, it is not possible for this office to grant a blanket exemption based upon the "facts" set out in a letter. However, I can tell you that it has been my experience that, by and large, individuals who are employed as service advisors and devote most of their time to that occupation, may be considered for the exemption for commissioned employees if all of the other criteria are met.

In your letter you also request guidance in regard to "sample commission pay plans" which you attached. The sample programs are:

1. \$2,500.00 monthly draw (against commissions - payable half on 15th and half at end of month), with commission based on 4% of labor and parts gross profit on orders taken by service advisor. You explain that this program provides commissions on labor gross profit (which equals labor charge to customer less sum paid to mechanic<sup>1</sup>) and parts gross profit (which equals the dollar price of the parts sold by the service advisor less the dealer cost of

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<sup>1</sup>This is not exactly the way you describe the program but this is what I think you mean. If I have misunderstood the program, please get in touch with me.

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Ned A. Fine, Esq.  
February 7, 1994  
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parts<sup>2</sup>).

Based upon the above, you present the following scenario:

Service Advisor writes up repair orders which reflect 2,000 hours of labor charges @ \$65.00 per hour or \$130,000 in the month. The same 2,000 hours cost 2,000 times \$22.50 (the average<sup>3</sup> hourly pay rate of the mechanics) or \$45,000. This leaves gross labor profit of \$130,000 minus \$45,000 equals \$85,000. \$85,000 times 4% equals \$3,400. Parts sales prices [attributable to the service advisor<sup>4</sup>] total \$75,000 in the month, less cost of parts (\$40,000) equals \$35,000. 4% times \$35,000 equals \$1,400. Total commission therefore equals \$3,400 (on labor) plus \$1,400 (on parts) or \$4,800. Service advisor is paid \$4,800 less \$2,500 draw against commissions, or additional commission check of \$2,300.

You add that we are to assume that the service advisor worked 10 hours of overtime each week for a total of hours worked in the month of 210 hours.

2. Same draw as above, except service advisors are paid a percentage of the gross cost of all labor sales (and sometimes including parts sales), as opposed to gross profit.
3. Service advisor is paid a salary plus commission. The commission plan could be either of the above approaches, perhaps with smaller percentages. A typical salary under your scenario might be \$1,200.00 per month.
4. Service advisor is paid a "guarantee" (say \$2,500.00) of a certain level of commissions. If the commission calculation does not meet or exceed the guarantee, the service advisor receives the guarantee. In your scenario, if actual commissions equal \$2,100.00 in a particular month and employee

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<sup>2</sup>You don't explain how your program calculates the "dealer cost" but assuming that this figure is properly computed (see, for instance, *Quillian v. Lion Oil* (1979) 96 Cal.App.3d 156; 157 Cal.Rptr. 740), this method of calculation is acceptable.

<sup>3</sup>We don't understand this statement. Do the figures represent the actual cost to the employer of the wages of the mechanics, or is this an "average" cost?

<sup>4</sup>Bracketed material has been added. If this is incorrect, please contact me.

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therefore receives the \$2,500.00 guarantee, the employee would be exempt from the overtime requirements provided the \$2,500.00 would represent at least \$6.375 for each hour the employee worked.

Employment arrangements which provide for a commission on goods or services to be paid to an employee may also provide for the payment to the employee at a regular pay period (not less than twice a month under California law) of a fixed sum of money, which may bear a more or less fixed relationship to the commission earnings which could be expected, on the basis of experience, for an average period of the same length (not to exceed one month under the provisions of Labor Code §204.1). Such periodic payments, which are variously described as "advances," "draws," or "guarantees," are keyed to a time base and are usually paid at weekly or other fixed intervals which may in some instances be different from and more frequent than, the intervals for payment of any earnings computed exclusively on a commission basis. They are normally ~~smaller in amount than the commission earnings expected for such a~~ period and if they prove to be greater, a deduction of the excess amount from commission earnings for a subsequent period, (not more than one month in the case of commissioned employees of an automobile dealership) is customary under the employment arrangement.

A determination of whether or to what extent such periodic payments can be considered to represent commissions may be required in those situations where the employment arrangement is that the employee will be paid the stipulated sum, or the commission earnings allocable to the same period, whichever is the greater amount. The stipulated sum can never represent commissions, of course, if it is actually paid as a salary. If, however, it appears from all the facts and circumstances of the employment that the stipulated sum is not so paid and that it actually functions as an integral part of a true commission basis of payment, then such compensation may qualify as compensation which represents commissions.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate are deemed commissions without regard to whether the computed commissions exceed the draw or guarantee which may be paid to the employee. Thus an employee who is paid a guarantee or draw against commissions computed in accordance with a bona fide commission payment plan or formula under which the computed commissions vary in accordance with the employee's sales will qualify for exemption provided the employee's regular rate of pay for such workweek is more than one and one-half times the applicable minimum wage. Under a bona fide commission plan all of the

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Ned A. Fine, Esq.  
February 7, 1994  
Page 4

computed commissions will be counted as compensation representing commissions even though the amount of commissions may not equal or exceed the guarantee or draw in some workweeks.

The exemption will also apply in the case of an employee who is paid a fixed salary plus an additional amount of earned commissions if the amount of commission payments exceeds the total amount of salary payments for the representative period.

A commission rate is not bona fide if the formula for computing the commissions is such that the employee, in fact, always or almost always earns the same fixed amount of compensation for each workweek (as would be the case where the computed commissions seldom or never equal or exceed the amount of the draw or guarantee). Another example of a commission plan which would not be considered as bona fide is one in which the employee receives a regular payment constituting nearly his entire earnings which is expressed in terms of a percentage of the sales which the establishment or department ~~can always be expected to make with only a slight addition~~ to his wages based upon a greatly reduced percentage applied to the sales above the expected quota.

I hope this adequately addresses the issues you raised in your letter of January 17, 1994. I should advise you that the ordinary turn around time for responding to letters of inquiry such as yours is less than thirty days. The normal turn around time is currently in excess of forty days. Repeated phone calls to this office regarding the status of the inquiry generally results in more delays because of the additional time necessary to respond to the phone inquiries. Please consider this axiom when seeking opinions in the future.

Yours truly,

H. THOMAS CADELL, JR.  
Chief Counsel

c.c. Victoria Bradshaw

1994.02.07

## **DIVISION OF LABOR STANDARDS ENFORCEMENT**

### **ENFORCEMENT POLICIES AND INTERPRETATIONS MANUAL**

50.6 **Commissioned Salespeople.** Certain commissioned salespersons covered either by Order 4-2001 or 7-2001 are exempted from overtime requirements by Subsection 3(D) of those Orders (O.L. 1994.02.07):

The provisions of subsections (A), (B) and (C) above shall not apply to any employee whose earnings exceed one and one-half (1½) times the minimum wage, if more than half (½) of that employee's compensation represents commissions.

50.6.1 It is important to note that certain requirements must be met in order to comply with California law and meet the exemption criteria:

1. In order to comply with the requirements of the exemption and of L.C. § 204, for each workweek in the pay period the earnings of the employee, whether actual commissions or a guaranteed draw for the workweek against commissions to be earned within such workweek, must exceed 1.5 times the minimum wage for each hour worked during the pay period.
2. As stated above, the payment of the earnings of more than 1.5 times the minimum wage for each hour worked must be made in each pay period. Therefore, it is not permissible to defer any part of the wages due for one period until payment of the wages due for a later period.
3. Compliance with the requirements of the exemption is determined on a workweek basis. The minimum compensation component of the exemption must be satisfied in each workweek and paid in each pay period.
4. The second component of the exemption, namely at least 50% of earnings from commissions, must also be satisfied in each workweek. However, the actual determination of compliance can be deferred until the reconciliation date following the end of the second pay period. Overtime will be due for any week in which the second component is not met. To test for whether the compensation arrangement is a bona fide commission plan, California law also uses a period of at least one month. Consistent commission earnings below, at, or near the draw are indicative of a commission plan that is not bona fide. If the commission plan is found to be invalid, overtime will be due for all weeks in which the exemption was claimed.

50.6.2 **Use Of Federal Definitions.** To the extent not inconsistent with California's overtime laws and policies, California in applying the provisions of Subsection 3(D) of Order 4-2001 and 7-2001, has adhered to the federal government's interpretation of the provisions of 29 U.S.C. § 207(i) (See also, *Hermann v. Suwanee Swiftly Stores, Inc.* 19 F.Supp.2d 1365 (N.D. Ga.1998) However, the definition of commissions adopted by the U.S. Department of Labor and the definition of that term in California law differ. (See *Keyer Motors v. DLSE* (1987) 197 Cal.App.3d 557; 242 Cal.Rptr. 873) Thus, the provisions of 29 CFR § 779.413, *et seq.* to the extent that they discuss the definition of commissions and what constitutes commissions are not instructive for purposes of explaining DLSE enforcement policy in this area.

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EXHIBIT 102.



1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION

4 -----X  
5 ANN OTSUKA, an Individual; JANIS  
6 KEEFE, an individual, CORINNE PHIPPS,  
7 an individual, and JUSTIN KISER,  
8 an individual, individually and  
9 on behalf of all others similarly  
10 situated,

11 Plaintiffs.

12 v.

No. C-07-02780-SI

13 POLO RALPH LAUREN CORPORATION,  
14 a Delaware Corporation, POLO  
15 RETAIL, LLC, a Delaware Corporation,  
16 POLO RALPH LAUREN CORPORATION, a  
17 Delaware Corporation doing business  
18 in California as POLO RETAIL CORP.,  
19 FASHIONS OUTLET OF AMERICA, INC., a  
20 Delaware Corporation, and DOES -500,  
21 inclusive,

22 Defendants.

23 -----X

24 January 16, 2008  
25 New York, New York  
Time: 10:17 a.m.  
Volume 1, Pages 157

Deposition of EVAN COHEN, taken on behalf  
of the Plaintiffs, at Greenberg Traurig, Met Life  
Building, 200 Park Avenue, New York, New York, commencing  
at 10:17 a.m., January 16, 2008, before Anthony  
Armstrong, a Notary Public and Certified Shorthand  
Reporter of the State of New York.

Page 1

1 A. Yes, we did compile data.  
2 Q. Today, a document has been produced  
3 for your deposition. Are these the data that you  
4 are referring to?  
5 A. Yes.  
6 Q. And this packet that is Bates stamped  
7 Polo 02058 through 02122, did you have any  
8 involvement in the preparation of this entire  
9 packet of documents?  
10 A. I had involvement, yes.  
11 Q. And was -- were these various pages  
12 prepared at about the same time?  
13 A. Yes. Roughly the same time period  
14 when we were looking at this, I should say.  
15 Q. And approximately when was that time  
16 when you were preparing these documents?  
17 A. It was in the summer.  
18 Q. Summer of 2007?  
19 A. Yes.  
20 Q. I'll have some specific questions  
21 about this as we move forward.  
22 What is your understanding of the  
23 nature of the claims made in this class action  
24 case filed in California?  
25 A. My understanding is that there are

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1 associates claiming that overtime was not paid to  
2 them.  
3 Q. Do you have any understanding of any  
4 of the other claims made in the case?  
5 A. Through privileged conversations, I  
6 do.  
7 Q. You had indicated earlier that you  
8 didn't review the complaint in the case in  
9 preparation for your deposition. Have you ever  
10 seen the complaint in this case?  
11 A. Not entirely.  
12 Q. You have seen portions of it that  
13 were shown to you by counsel?  
14 A. Yes.  
15 Q. Have you ever reviewed the  
16 informational website that we established for the  
17 case, Poloclassaction.com?  
18 A. Not thoroughly. I knew that there  
19 was a website.  
20 Q. Have you gone to that website?  
21 A. Yes.  
22 Q. And have you clicked on the link to  
23 take you to the complaint that was filed in the  
24 case?  
25 A. I believe I did.

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1 Q. Other than the claims that were made  
2 in the case relating to the overtime issue, do  
3 you have any other understanding of other claims  
4 made in the case?  
5 A. Something about breaks, break time.  
6 Everything I learned was really through  
7 privileged conversation. I mean, I didn't get it  
8 expressly from that website.  
9 Q. You understand that there is a claim  
10 for failure to provide rest breaks under  
11 California law?  
12 A. Through privileged conversation.  
13 Q. Okay. Could you briefly thumbnail  
14 your educational background after high school?  
15 A. I have a bachelors, a business  
16 degree, four year college.  
17 Q. Where at?  
18 A. University of SUNY Buffalo.  
19 Q. Any subsequent formal education?  
20 A. No, not formal.  
21 Q. What is your current position at  
22 Polo?  
23 A. I am manager of retail store  
24 operations.  
25 Q. And how long have you been manager of

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1 retail store operations?  
2 A. I have been in the role since July,  
3 2005.  
4 Q. Throughout that time, your formal  
5 position was manager of retail store operations;  
6 yes?  
7 A. Yes.  
8 Q. Prior to July, 2005, were you  
9 employed by Polo Ralph Lauren?  
10 A. I was.  
11 Q. What was your position before then?  
12 A. I was sort of a retail store  
13 operations analyst.  
14 Q. And how long did you hold a position  
15 where you were retail store operations analyst?  
16 A. For about two years.  
17 Q. So -- so, from the time,  
18 approximately, in 2003 to 2005?  
19 A. Yes. I joined Polo -- I think it was  
20 October, '03.  
21 Q. Was your first position as retail  
22 store operations analyst?  
23 A. Yes, okay.  
24 Q. Did you hold a position with Polo  
25 before then?

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5 (Pages 14 to 17)

<p>1 of this document in a sufficient quantity to  2 provide all sales associates, who might be  3 subject to arrears, copies?  4 A. No, there was not a specific printing  5 of this, because this is only affected new hires.  6 You would only need to print this out as you  7 hired somebody.  8 Q. Let me show you what we previously  9 marked as Exhibit 7.  10 (Whereupon, Exhibit 7 was  11 previously marked for identification.)  12 *****  13 BY MR. KITCHIN:  14 Q. That's an e-mail dated May 13, 2004,  15 from Lara Moldawsky to a number of recipients.  16 First question is whether, prior to  17 today, you have seen this e-mail?  18 A. I have seen this e-mail.  19 Q. Was this e-mail sent to those  20 individuals who had attended the conference or  21 meeting regarding the rollout of the arrears  22 program?  23 A. It was. It was sent after that  24 meeting.  25 Q. So, the reference under the text</p>	<p>1 A. I think this was, initially, we might  2 have included the information about arrears in  3 the handbook and then decided that it would be  4 better to keep it as an addendum, as it did not  5 address all sales associates, only those hired  6 after a certain date.  7 Q. Is Lara Moldawsky still employed by  8 Polo?  9 A. She is not.  10 Q. Do you know where she is working now?  11 A. I do not.  12 Q. Do you know where she is living?  13 A. No.  14 Q. I'm going to show you what was  15 previously marked as Exhibit 23.  16 (Whereupon, Exhibit 23 was  17 previously marked for identification.)  18 *****  19 BY MR. KITCHIN:  20 Q. This was a document provided during  21 the course of this litigation, Polo 303.  22 Have you seen this specific form prior  23 to just now?  24 A. I have.  25 Q. And is this a form that is used or</p>
Page 66	Page 68
<p>1 where it says, "Hi, many thanks to all of you for  2 your participation the past few days," does that  3 refer to the meeting in New York?  4 A. It does.  5 Q. So, that meeting took place in  6 approximately May of 2004?  7 A. It looks like April of 2004.  8 Q. Toward the middle of the page, it  9 says, attached is. And then there is some bullet  10 points. The second bullet point, Special FY05  11 addendum, does that refer to the exhibit we just  12 looked at, which was on the arrears program,  13 Exhibit 10?  14 A. It is that document, yes.  15 Q. At some point, was one of the  16 handbooks that Polo uses for its employees -- did  17 one of the handbooks that Polo uses for its  18 employees contain information about the arrears  19 program?  20 A. It did not.  21 Q. Do you know what this sentence refers  22 to in the second bullet point, quote, "This  23 contains the detail and arrears which we pulled  24 out of the handbook and is now a separate  25 attachment," closed quote?</p>	<p>1 was used to document those individuals who had  2 fallen into arrears under the arrears program?  3 A. This is not the document that shows  4 that.  5 Q. What -- if you know, what was the  6 purpose of this document?  7 A. The purpose of this document is that  8 every time, each pay period, two week pay period,  9 we have a commission file. This is a collection  10 of all of the commission files over the course of  11 the specific year. In this case, it looks like  12 fiscal '05.  13 Q. Was there a specific database or form  14 that was prepared on some periodic basis during  15 the arrears program that detailed individuals who  16 were deemed by the company to be in arrears?  17 A. There was.  18 Q. And was that a single document that  19 contained all the names of individuals?  20 A. It did.  21 Q. Was that a nationwide --  22 A. Nationwide e-mail.  23 Q. Was there a specific arrears table or  24 document prepared for California stores?  25 A. Not specific for California stores,</p>
Page 67	Page 69

18 (Pages 66 to 69)

<p>1 no.</p> <p>2 Q. Was -- how often was that document</p> <p>3 prepared?</p> <p>4 A. Biweekly.</p> <p>5 Q. And was that document then forwarded</p> <p>6 to managers in California?</p> <p>7 A. It was forwarded to every manager in</p> <p>8 the company, general manager level.</p> <p>9 Q. And was it segregated or divided by</p> <p>10 store number?</p> <p>11 A. Yes.</p> <p>12 Q. So, every general manager in the</p> <p>13 country would receive numerous or number of pages</p> <p>14 showing people in arrears throughout the country?</p> <p>15 A. It was on one page, generally. It</p> <p>16 was a longer spreadsheet. It included the people</p> <p>17 in the company that had fallen into arrears as a</p> <p>18 result of the current pay period that that</p> <p>19 document was attributing to.</p> <p>20 Q. And how is that transmitted to the</p> <p>21 general managers?</p> <p>22 A. E-mail.</p> <p>23 Q. And did you prepare that document?</p> <p>24 A. I did.</p> <p>25 Q. And was that sent as an attachment?</p>	<p>1 A. In that cover letter -- I can't</p> <p>2 recall what it exactly said in the cover letter,</p> <p>3 go to each associate and tell them. It might</p> <p>4 have been assumed in my contents, but I don't</p> <p>5 remember. I can't recall exactly if, in the</p> <p>6 note, it said, make sure you walk up to each</p> <p>7 associate and tell them.</p> <p>8 Q. One of the ways that that individual,</p> <p>9 during the pendency of the arrears program, could</p> <p>10 be in arrears is by failing to sell a sufficient</p> <p>11 quantity of merchandise to cover their base</p> <p>12 salary, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Is another way that a person could</p> <p>15 fall into arrears, based on product returns that</p> <p>16 were debited against their sales?</p> <p>17 A. Sure.</p> <p>18 Q. Are there any other ways that a</p> <p>19 person could fall into arrears during the course</p> <p>20 of this program?</p> <p>21 A. Arrears is calculated based on the --</p> <p>22 no. That is not -- it's based on net sales. So,</p> <p>23 you can't fall into arrears for anything else</p> <p>24 other than sales performance.</p> <p>25 Q. There is, in the right hand --</p>
Page 70	Page 72
<p>1 A. Yes.</p> <p>2 Q. What program was the attachment in?</p> <p>3 A. Excel.</p> <p>4 Q. And did the attachment include a</p> <p>5 cover letter e-mail from you when you --</p> <p>6 A. It did.</p> <p>7 Q. And what information did you</p> <p>8 generally provide in that cover letter?</p> <p>9 A. I generally provided macro level</p> <p>10 information on the number of people that had</p> <p>11 fallen into arrears and the total amount of money</p> <p>12 that was owed to the company, as well as a number</p> <p>13 of people that fell into performance management,</p> <p>14 plus they were hired prior to 2004, and the</p> <p>15 selling costs associated with each group, and</p> <p>16 then links to certain HR policies and procedure</p> <p>17 documents, just in case anyone had forgotten, and</p> <p>18 tips to help avoid your associates from falling</p> <p>19 into arrears or performance management.</p> <p>20 Q. Were there any e-mails or documents</p> <p>21 that you're aware of, whether you prepared or</p> <p>22 just saw, that specifically instructed general</p> <p>23 managers to approach and inform those sales</p> <p>24 associates who were in arrears that they were,</p> <p>25 indeed, deemed to be in arrears by the company?</p>	<p>1 right-hand side, No. 23, a couple of references.</p> <p>2 1, RL Media, ADJ. That's the bottom of the</p> <p>3 right-hand column.</p> <p>4 A. I see it.</p> <p>5 Q. What does that refer to?</p> <p>6 A. At this time, in fiscal 2005, our</p> <p>7 Polo.com, our internet retailer for Ralph Lauren,</p> <p>8 their sales came in on a different file. We were</p> <p>9 then merged on to this file. So, our retail</p> <p>10 business systems department would take a file</p> <p>11 from Polo.com on the number of sales generated in</p> <p>12 the stores because our store employees are able</p> <p>13 to -- not purchase. They were able to instruct,</p> <p>14 to sell things out of the Polo.com inventory to</p> <p>15 their customers.</p> <p>16 So, they -- so, that would be</p> <p>17 generated on a biweekly basis, given to retail</p> <p>18 business systems for that specific pay period and</p> <p>19 they would merge those sales into the sales for a</p> <p>20 given pay period for each given associate who</p> <p>21 might have sold something via Polo.com. So, where</p> <p>22 you see RL media adjustment, that just means that</p> <p>23 their sales were adjusted to reflect the Polo.com</p> <p>24 sale.</p> <p>25 Q. So that -- make that shorter. If</p>
Page 71	Page 73

19 (Pages 70 to 73)

1 they sold something through the website to a  
2 customer, then --  
3 A. They received credit for it.  
4 Q. Okay. Up at the top of the column is  
5 INV hours, ADJ. What does that refer to?  
6 A. As stated earlier, twice a year, we  
7 take inventory in July and January. During that  
8 particular time of the year, where we calculate  
9 commission, the inventory hours are treated as  
10 benefits, so they are treated as a non-selling  
11 hour. So, the associate gets credit for those  
12 hours. It does not -- those sales are not held  
13 against commission.  
14 Q. Then about the middle of the column,  
15 there is one that says, hour rate per payroll.  
16 What does that refer to?  
17 A. In the case where our retail business  
18 systems team did not get enough information,  
19 basically, the payroll team feeds information to  
20 the retail business systems team, and,  
21 occasionally, that data might have holes. So,  
22 then retail business contacts payroll to verify a  
23 rate for a specific person. Our retail business  
24 systems partners are very good at keeping notes  
25 on any time something maybe wasn't received the

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1 first time, but was received at a second pass.  
2 Q. In the right-hand column, there are  
3 references to deducted amounts, and then there  
4 are references that just say, arrears.  
5 For those rows that just refer to  
6 arrears, does that mean that the person is in  
7 arrears but has not earned commission from which  
8 arrears had been taken as of the day of the  
9 report?  
10 A. I can't recall exactly why that word  
11 just appears there, but it's -- it seems that  
12 it's whenever someone failed to cover their base  
13 salary, they are just noted.  
14 Q. I'm going to show you what we  
15 previously marked as Exhibit 2.  
16 (Whereupon, Exhibit 2 was  
17 previously marked for identification.)  
18 \*\*\*\*\*  
19 BY MR. KITCHIN:  
20 Q. This is the Polo Ralph Lauren Polo  
21 Retail Corporation Sales Associate Compensation,  
22 Sales Associate Handbook, April 2002.  
23 Are you familiar with this specific  
24 version of the sales associate handbook?  
25 A. I am familiar, yes.

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1 Q. This sales associate handbook was in  
2 effect until the April of 2004 compensation  
3 handbook that was rolled out; is that correct?  
4 A. Correct.  
5 Q. I will have you turn to Page 4 of the  
6 document. It's Polo 721. There is a reference  
7 to overtime about halfway down the page.  
8 A. Uh-huh.  
9 Q. It indicates, the second paragraph,  
10 sales associates, senior sales associate and  
11 executive sales associates are not eligible to  
12 receive a premium overtime compensation rate.  
13 However, a sales commission reconciliation will  
14 be performed at the close of each fiscal year to  
15 ensure that each associate is compliant with  
16 federal labor guidelines stipulating that the  
17 majority of their pay must be in the form of  
18 commission. If a sales associate is found to be  
19 overtime eligible at that time, then the  
20 appropriate amount of overtime compensation will  
21 be paid to that associate.  
22 Do you know who drafted this  
23 paragraph?  
24 A. No.  
25 Q. Do you know whether Polo Ralph Lauren

Page 76

1 ever performed a sales commission reconciliation  
2 analysis prior to 2005?  
3 A. I do not know.  
4 Q. Do you know if -- you don't know  
5 whether one was ever performed prior to 2005?  
6 A. No, I do not know.  
7 Q. Do you know if a sales commission  
8 reconciliation has ever been performed at Polo  
9 Ralph Lauren?  
10 A. I do know they were performed.  
11 Q. When?  
12 A. It was performed this year.  
13 Q. Was that the first time that that  
14 analysis had ever been performed to your  
15 knowledge?  
16 A. To my knowledge, yes.  
17 Q. You prepared that reconciliation?  
18 A. I did.  
19 Q. And that's included in the stack of  
20 documents that were produced today?  
21 A. Yes, uh-huh.  
22 Q. We will talk more about this document  
23 in a little while, but when you were preparing  
24 this reconciliation, did you come to learn that  
25 this is the first time that this reconciliation

Page 77

20 (Pages 74 to 77)



<p>1 number of times they met the exemption.  2 Q. As opposed to the actual --  3 A. As opposed to total.  4 Q. Why did you do that?  5 A. I had worked with our corporate  6 compensation team, and I had done my methodology.  7 As you would see, they had done theirs. They  8 looked like their format a little better and the  9 numbers tied out. They did this format. I think  10 that's the one we were showing you here.  11 Q. The next set of pages, what are  12 these?  13 A. Payroll hours report again. You can  14 see that the way they designate time is now a  15 decimal place in it. It is not broken out day by  16 day. It's total regular hours worked on,  17 overtime. There are other types of pay across  18 the top.  19 Q. On Page 2072, we have Corinne Mullen,  20 and total hours worked, and a bunch of other data  21 on her.  22 Based on this document that you have  23 in front of you, do you know whether Polo had  24 determined that Corinne Mullen was eligible to  25 receive premium overtime compensation for overtime</p> <p style="text-align: right;">Page 146</p>	<p>1 Q. Did you perform the -- which type of  2 analysis did you perform?  3 A. The same one we did for '03, '04.  4 Q. You are looking at the actual  5 commission dollars for the years versus the total  6 paid for the year?  7 A. Exactly.  8 Q. And if that ratio is less than  9 50 percent, then you looked at specific pay  10 periods in which they failed to sell 50 percent  11 and/or premium overtime to come up with the  12 number?  13 A. Right.  14 Q. On Page 2115, you determined, based  15 on your methodology, that for all of California  16 premium overtime compensation was due in the  17 total amount of \$537.63; correct?  18 A. Yes.  19 Q. And that money was sent out to the  20 employees that your analysis determined were due  21 overtime compensation?  22 A. That is correct.  23 Q. The next period 2116 -- Page Number  24 2116, OT owed California, 2007.  25 Did you perform this analysis as you</p> <p style="text-align: right;">Page 148</p>
<p>1 hours that she worked during her employment?  2 A. If she -- we have her hours because  3 she had failed the 50 percent test. And if she  4 was eligible for overtime based on our  5 methodology, then she was paid for that overtime.  6 Q. And do you know whether she was  7 deemed to be eligible for premium overtime?  8 A. I can't recall it exactly. I don't  9 have her names on these documents except for the  10 hours page.  11 Q. This next set of documents, looks  12 like it runs from Page 2072 all the way to 2112.  13 Is that a data printout?  14 A. Yes. That's the raw data on every  15 paper sales for Stores 802 through 811, 802, 803,  16 810, 811.  17 Q. This doesn't include all the stores  18 in California, does it?  19 A. It does not, no.  20 Q. But, you analyzed all the stores in  21 California when you prepared this?  22 A. I did.  23 Q. On Page 2113, we had the 50 percent  24 test for 2006?  25 A. Uh-huh.</p> <p style="text-align: right;">Page 147</p>	<p>1 had done with the 2003, 2004 data?  2 A. Correct.  3 Q. So, it was based on year-long  4 commission dollars ratio to total paid?  5 A. That is correct.  6 Q. And based on that analysis, you  7 determined that \$231.56 was owed to California  8 employees?  9 A. That is correct.  10 Q. The next document is 2118. Looks  11 like it runs through the end of the packet, 2122.  12 A. Yes. This the payroll hours report.  13 You see they made another improvement where they  14 really specify the type of hours.  15 Q. Who do the employees who are  16 included --  17 A. Those are the employees that failed  18 to meet the 50 percent test, I believe.  19 Q. From 3/26/06 to 3/31/07?  20 A. Yes. I don't know if every page in  21 here is included, but we only requested hours for  22 those employees that had failed to meet the  23 50 percent test.  24 Q. Do you know whether, in paying the  25 amounts designated under each 50 percent test for</p> <p style="text-align: right;">Page 149</p>

38 (Pages 146 to 149)

<p>1 these years, also included what are called</p> <p>2 waiting time penalties, under California law?</p> <p>3 A. They did.</p> <p>4 Q. And how were the waiting time</p> <p>5 penalties calculated?</p> <p>6 A. 10 percent of each year, it was late.</p> <p>7 Q. So, 10 percent interest on each year?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Did it include, under California law,</p> <p>10 waiting time penalties that are equal to, at</p> <p>11 most, 30 days of salary of the individual?</p> <p>12 A. No, not that I'm aware of.</p> <p>13 Q. One of the claims made in this case</p> <p>14 is that Polo Ralph Lauren failed to pay sales</p> <p>15 associates for waiting time as they were waiting</p> <p>16 to leave the store at the end of their shifts to</p> <p>17 have a bag check or loss prevention inspection</p> <p>18 performed.</p> <p>19 Did your analysis of overtime</p> <p>20 eligibility include any amount of time that was</p> <p>21 designated as waiting time for loss prevention</p> <p>22 inspection searches?</p> <p>23 A. If the sales associates were clocked</p> <p>24 in at the time of their bag inspection searches,</p> <p>25 then they were paid for those hours worked.</p> <p style="text-align: right;">Page 150</p>	<p>1 made in this lawsuit?</p> <p>2 A. No. I just was responsible for the</p> <p>3 overtime component.</p> <p>4 Q. Are you aware of any of your</p> <p>5 colleagues from Polo who are performing or have</p> <p>6 performed an analysis of waiting time relating to</p> <p>7 loss prevention inspections?</p> <p>8 A. No.</p> <p>9 Q. Was the arrears program implemented</p> <p>10 in all full price retail stores in California?</p> <p>11 A. It was implemented in all full price</p> <p>12 retail stores in California that were on draw</p> <p>13 versus commission.</p> <p>14 Q. Was a program implemented in</p> <p>15 Burlingame?</p> <p>16 A. Burlingame has had -- has, I think,</p> <p>17 at the time, was on draw versus commission, but</p> <p>18 they switched to and fro a couple of times based</p> <p>19 on business strategy and business requirements.</p> <p>20 Whenever you are on that program, you are held to</p> <p>21 those rules.</p> <p>22 Q. Which stores were excluded from the</p> <p>23 arrears program in California?</p> <p>24 A. I can't recall if Burlingame was base</p> <p>25 plus at the time. If they were, then they would</p> <p style="text-align: right;">Page 152</p>
<p>1 Q. If the sales associate had clocked</p> <p>2 out and then had to wait 15 minutes, for example,</p> <p>3 for a bag check, your analysis didn't add any</p> <p>4 estimated number for any kind of wait time?</p> <p>5 A. No.</p> <p>6 MR. KITCHIN: Let's mark this whole</p> <p>7 packet as Exhibit 53.</p> <p>8 (Whereupon, Exhibit 53 was marked</p> <p>9 for identification.)</p> <p>10 *****</p> <p>11 MR. KITCHIN: Neil, do you have an</p> <p>12 extra copy of this? I would like to take</p> <p>13 one with me.</p> <p>14 MR. CAPOBIANCO: You can have that</p> <p>15 one.</p> <p>16 BY MR. KITCHIN:</p> <p>17 Q. Why did Polo decide to do an overtime</p> <p>18 wage reconciliation last year?</p> <p>19 A. It was brought to my attention</p> <p>20 through counsel that this was something that was</p> <p>21 going to be done.</p> <p>22 Q. Other than the analyses that we have</p> <p>23 talked about for the reconciliation, have you</p> <p>24 performed any other types of analysis with</p> <p>25 respect to the compensation claims that have been</p> <p style="text-align: right;">Page 151</p>	<p>1 be excluded. If they were not, then they were</p> <p>2 included.</p> <p>3 Q. Are there any other stores that you</p> <p>4 can think of that might have been excluded?</p> <p>5 A. Not at full price.</p> <p>6 Q. Was the arrears program, to your</p> <p>7 knowledge, implemented in a consistent way across</p> <p>8 those stores in California that were subject to</p> <p>9 the arrears policy?</p> <p>10 A. To my knowledge, yes.</p> <p>11 Q. It was the intention of Polo Ralph</p> <p>12 Lauren to institute that system consistently</p> <p>13 across those stores where it applied in</p> <p>14 California?</p> <p>15 A. Correct.</p> <p>16 MR. KITCHIN: That's all the</p> <p>17 questions I have. Thanks.</p> <p>18 THE WITNESS: Great. Thanks.</p> <p>19 MR. CAPOBIANCO: No questions for me.</p> <p>20</p> <p>21 (Whereupon, the deposition</p> <p>22 concluded at 3:17 p.m.)</p> <p>23 *****</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 153</p>



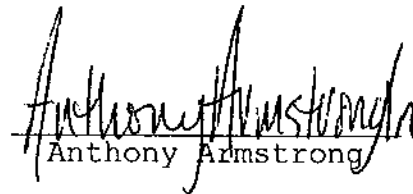
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## C E R T I F I C A T E

I, Anthony Armstrong, a Certified  
Shorthand Reporter and Notary Public within  
and for the State of New York, do hereby  
certify:

That EVAN COHEN, the witness whose  
testimony is hereinbefore set forth, was  
duly sworn by me and that such testimony is  
a true record of the testimony given by such  
witness.

I further certify that I am not  
related to any of the parties by blood or  
marriage, and that I am in no way interested  
in the outcome of this matter.



Anthony Armstrong

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**EXHIBIT 103.**

## **SPECIAL FY05 ADDENDUM**

### **ARREARS**

All sales associates hired after 4/18/04 will be subject to arrears beginning in the second quarter of FY05. During pay periods in which your earned commissions fail to cover your base salary, you will be subject to arrears.\*

If you are in arrears you will be subject to pay back the amount that you owe. The amount you owe will be deducted via any earned commissions in subsequent pay periods, until the arrears amount is fully repaid. In the case of time off, you will not be subject to arrears unless a return is taken during this period. The commission you had originally earned on the sale will now be taken in arrears, and you will be required to pay it back in subsequent pay periods.

Retail Store Finance will be tracking and applying any arrears owed and will be making the proper deductions. Store Operations will provide reports to the stores of any arrears owed on a bi-weekly basis. Arrears will never be taken from an associate's base salary.

#### **\*Calculation of Arrears:**

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**Net Sales \* Commission Rate – Base Salary = Commission Earned**

If **Commission Earned** is less than **Base Salary**, the difference between these amounts is what you owe in arrears

### **VACATION, SICK/PERSONAL, AND HOLIDAY PAY**

All sales associates will receive vacation, sick/personal and holiday pay based upon their base pay rate. This pay will be included in their total base pay calculation, which is held against commission. Inventory, personal/sick and vacation time, will not be counted in the arrears calculation. Additionally, if you are on any approved leave of absence (medical, FMLA, military or other), you will not be evaluated for performance management and your time off will not be held in arrears. However, sales support activities will be included in the calculation of your arrears. *Managers are responsible for coding the appropriate time off code into the POS system to ensure accuracy of selling hours vs. non-selling hours.*

**STORE GROUP RECLASSIFICATIONS:**

Beginning in FY05, the Newbury and Phoenix stores will be moved from Group 1 to Group 2. Current Sales Associates in these respective stores will remain in Comp Plan A and will maintain their current commission percentages throughout FY05. However, as a result of their group change, they will be required to meet the new sales volume hurdles of the new group. Additionally, at the end of FY05, if they fail to meet these volume requirements they will fall into the tier reflective of their sales volume.

**HOME COLLECTION:**

All New Hires in our Home Collection Departments, will be given *four pay periods*, in which they will not be subject to the rules of performance management, and will not be subject to arrears. During this period of training, they will be paid at the \$12 per hour training rate.

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EXHIBIT 104.

## **FISCAL 2007 COMPENSATION UPDATE**

### **STORE GROUPS**

Coinciding with the start of Fiscal 2007, stores have been put into groups, based on volume expectations, trend, productivity and store type. These store groups, of which there are 5, will now define where your store is slotted in both the Comp Plan A and Comp Plan B structure. Additionally, these store groups will help us better assess and compare similar stores, in a variety of ways.

Due to this change several stores have changed there location on the comp structure, and as a result sales associates in those stores will have new goals in Fiscal 2007. Therefore, associates may keep their current compensation for one more year, and will be evaluated based on their new goals going into Fiscal 2008. Please refer to your stores specific compensation plan grid for more details.

### **ARREARS**

Beginning, Sunday March 25<sup>th</sup>, our arrears program will be terminated. Any remaining arrears balance owed will be captured on the March 31<sup>st</sup> paycheck. Should an associate still have a balance following that paycheck, those amounts **will not be taken from future paychecks**.

We will however continue with our Performance Management Program. To re-iterate that program (direct from the handbook):

Sales associates are expected to sell enough to cover their base salary on a consistent basis each pay period. Sales Associates will be evaluated at the end of each quarter. Quarterly reviews will be based on the start and end dates of each quarter and the payroll periods that coincide with the quarterly end dates. *Please note, for the purposes of evaluation, if a pay period is spilt between two quarters, that pay period will count towards the prior quarter.* In each quarter you can miss no more then two-pay periods prior to receiving a warning (*Missing a pay period means that your sales volume does not cover your base salary*). If in the following quarter you again miss more than 2 pay periods you will drop a tier or face termination (*termination occurs if you are at the entry level commission rate*). To be subject to disciplinary action, sales associates must under perform for two successive quarters. This applies in perpetuity, thus should you receive a warning in the fourth quarter, you will enter the first quarter of the new fiscal year on warning, and be subject to the rules of the plan.

Sales Associates on a legitimate approved leave will be excluded from the performance management evaluation during their weeks out. Sales Associates who take vacation, sick/personal, or holiday time are expected to meet the requirements of the program. We allow for sales associates to miss two pay periods (or 4 weeks) each quarter to accommodate such situations as, time off.



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**EXHIBIT 105.**

**Golden Gate Reporting**

1                   IN THE UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF CALIFORNIA  
3                   SAN FRANCISCO DIVISION  
4

5   ANN OTSUKA, an individual;       )  
6   JANIS KEEFE, an individual,     )  
7   CORINNE PHIPPS, an               )  
8   individual; and RENEE DAVIS,     )  
9   an individual; individually       )  
10   and on behalf of all others      )  
11   similarly situated,               )  
12                   Plaintiffs,       )

13                   -vs-                               )   No. C-07-02780-SI  
14

15   POLO RALPH LAUREN CORPORATION;) )  
16   a Delaware Corporation; POLO    )  
17   RETAIL, LLC., a Delaware        )  
18   Corporation, POLO RALPH LAUREN)  
19   CORPORATION, a Delaware        )  
20   Corporation, doing business in)  
21   California as POLO RETAIL        )  
22   CORP; FASHIONS OUTLET OF        )  
23   AMERICA, INC., a Delaware       )  
24   Corporation,                    )  
25                   Defendants.       )

26  
27                   The deposition of HARVEY RESNICK, called  
28   by the Plaintiffs for examination, pursuant to  
29   subpoena and pursuant to the Federal Rules of  
30   Civil Procedure for the United States District  
31   Courts pertaining to the taking of depositions,  
32   taken before Cynthia J. Conforti, Certified  
33   Shorthand Reporter, at Suite 2500, 77 West Wacker  
34   Drive, Chicago, Illinois, commencing at the hour  
35   of 10:09 a.m. on the 23rd day of April, A.D.,  
36   2008.

Page 1

1 seasons, things like that.  
2 Q. Were there handbooks available on this  
3 website that employees could access?  
4 A. I don't know.  
5 Q. Were sales made by specific employees  
6 listed in some way on the website?  
7 A. Actually, I think there was some sort of a  
8 list to that effect.  
9 Q. And was that website accessible by sales  
10 associates?  
11 A. I don't recall.  
12 Q. When you were working at Polo, how did you  
13 learn of any policy or procedure changes that  
14 occurred?  
15 A. To the best of my recollection typically  
16 through managers' meetings information like that  
17 would come down from the general manager to the  
18 department managers in the weekly managers  
19 meeting.  
20 Q. So you had a weekly managers meeting?  
21 A. Yes.  
22 Q. And was that typically when the store was  
23 closed or open?  
24 A. It was in the morning before the store  
25 opened

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1 Q. And at those meetings were all managers  
2 required to attend?  
3 A. Yes.  
4 Q. And were you provided handouts or  
5 documents during those meetings on occasion?  
6 A. Sometimes.  
7 Q. Are you familiar with a program that was  
8 called arrears?  
9 A. Yes.  
10 Q. What was the arrears program?  
11 A. Best of my recollection it's a case of  
12 when you have not covered your hourly income or  
13 base rate through sales, you essentially owe sales  
14 to the company, so before, even if you do exceed  
15 your initial sales goal in the next pay period,  
16 you have to cover the shortfall from the previous.  
17 Q. So does that mean that if you had fallen  
18 into arrears by let's say a hundred dollars when  
19 you subsequently made your commission \$100 would  
20 be debited against the commissions you had earned?  
21 A. Yes.  
22 Q. Did that happen -- strike that.  
23 Did sales associates in your department on  
24 any occasion fall into arrears?  
25 A. Yes, I'm sure they did.

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1 Q. How did you learn that they had fallen  
2 into arrears?  
3 A. I believe we were given a list of sales  
4 associates who were in that situation through  
5 management.  
6 That may be -- when you asked earlier  
7 about sales appearing on that website, I think  
8 there was a place that you could see that. Those  
9 people who were in that arrears situation were  
10 posted I think.  
11 Q. When you saw that someone in your  
12 department had fallen into arrears, did you have  
13 any responsibilities or duties to communicate that  
14 matter to the sales associate?  
15 A. Yes.  
16 Q. And how would you go about communicating  
17 the arrears situation to a sales associate?  
18 A. Through a conversation, a one-on-one or  
19 just a, you know, an impromptu but private  
20 conversation.  
21 Q. Would you specifically tell an individual  
22 that you're in arrears X amount of dollars, so if  
23 you make your commission you'll be debited by that  
24 amount?  
25 A. I can't say for certain that I said it in

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1 exactly those terms, but that's the type of  
2 information I would communicate.  
3 Q. You indicated that Justin Kaiser worked  
4 within your department?  
5 A. Yes.  
6 Q. And was he still employed there when you  
7 left employment?  
8 A. Yes.  
9 Q. And can you describe for us your  
10 perspective toward the quality of work that he  
11 performed at Polo?  
12 A. I would say that generally his -- quality  
13 of work of his work was high. He was an  
14 aggressive salesperson. He liked to sell and  
15 understood the rewards, financial rewards of  
16 selling successfully.  
17 Q. While you were employed as his manager,  
18 did you ever develop any specific complaints about  
19 his conduct or performance?  
20 A. Did I?  
21 Q. Yes.  
22 A. I didn't have any specific complaints.  
23 Not to my recollection.  
24 Q. Did Janis Howay work for your department?  
25 A. She did.

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16 (Pages 58 to 61)

<p>1 A. Well, since I was a salaried employee, it  2 didn't seem to matter to me, so whatever time they  3 put down was fine for me. It was acceptable for  4 me because it didn't change my compensation in any  5 way.  6 Q. Did you ever as a check-and-balance  7 attempt to see what time was recorded for you  8 checking out on the days when the system was shut  9 down while you were still working?  10 A. Yes, I did.  11 Q. And did you find that it was accurate,  12 inaccurate?  13 A. Well, what I did -- I did a -- sometime,  14 and I can't remember exactly when it was, I was  15 curious to see how many hours I was working  16 actually, so I went in to a system that allowed me  17 to see the punches as they call them, the  18 clock-in/clock-outs, and I saw the documentation.  19 I don't know that I did anything to change  20 anything, you know, but I saw my own, you know,  21 hours.  22 Q. And did you comment one way or another  23 whether they were generally accurate or have any  24 assessment of that?  25 A. Did I comment? To whom?</p>	<p>1 Q. And during your tenure did any of the San  2 Francisco store employees come to you to complain  3 that the number of hours reflected on their  4 paycheck was inconsistent with the number of hours  5 they felt they were entitled to be paid for?  6 A. I don't recall.  7 Q. During the time that you were the men's  8 clothing and men's sport manager, did you ever  9 have occasion to explain the arrearages program to  10 any of your sales associates?  11 A. My answer to that question is yes, but I  12 can't be specific who it was that I was talking  13 with. I don't have a recollection.  14 I'm sure I had the conversation more than  15 once in an effort to explain how it worked.  16 Q. And how was it that you gained the  17 information that allowed you to explain it to your  18 sales associates?  19 A. It had to do with the fact that they were  20 in arrears and not making their, not covering  21 their base pay with sales, so it was necessary to  22 explain to them where they stood and explain also  23 at the same time how, you know, how they became in  24 arrears, why they were in arrears.  25 Q. And did someone explain the program to you</p>
<p>Page 106</p>	<p>Page 108</p>
<p>1 Q. Did you comment even to yourself?  2 A. I think, I think, no.  3 The only observation I made was that there  4 was the nights that I was there well beyond the  5 time that my clock-out appeared. I mean I made  6 that observation. I knew that, you know, if I was  7 clocked out at 8:15 and I was still there at 11  8 o'clock that there was something wrong in the, you  9 know, but it didn't matter because I wasn't  10 compensated based on my -- the hours that I was  11 there. The clocking in and out for managers  12 seemed to me a little superfluous anyways, but...  13 Q. Are you aware whether employees that  14 worked within your department while at Polo  15 received a report reflecting how many hours they  16 were credited for working during a particular pay  17 period?  18 A. Am I aware if they received a report like  19 that?  20 Q. Let me ask it slightly differently.  21 Are you aware that Polo employees that  22 worked in the San Francisco store they're actual  23 paycheck reflected the number of hours they were  24 paid for during a particular --  25 A. Yes, that's correct.</p>	<p>1 that gave you this -- who explained the arrears  2 program to you that permitted to you explain it to  3 your sales associates?  4 A. I believe it was part of my introduction  5 to the company as a manager. It was being  6 explained to me how my staff was compensated.  7 Q. During your tenure are you aware of  8 whether any sales associates within your  9 department, in sport, men's clothing, ever had  10 commission income debited because of the arrears  11 because they were in arrears?  12 A. I don't know.  13 Q. When you explained the arrears program to  14 the sales associates as part of your job  15 responsibilities, can you tell me what you told  16 them, how you explained it to them?  17 A. Basically what I would have said is that  18 "You must cover your base pay, which is the hourly  19 rate which you are paid times the number of hours  20 you work through sales at the percent that your  21 department is paying you commission, and when  22 you've covered that, then you begin to earn  23 additional income through commission sales. If  24 you fail to reach that, you owe the company. You  25 don't owe them money" because some of them, they</p>
<p>Page 107</p>	<p>Page 109</p>

28 (Pages 106 to 109)

**Golden Gate Reporting**

<p>1 thought that meant they owed them cash.</p> <p>2 "You don't owe them money." I said, "You</p> <p>3 owe them sales. You have to make that up to cover</p> <p>4 the shortfall by selling more in the next pay</p> <p>5 period, otherwise you will continue to always only</p> <p>6 get your hourly pay."</p> <p>7 Q. So the sales target would get higher --</p> <p>8 A. Sure, gross, yeah.</p> <p>9 Q. Got you. And that was basically how you</p> <p>10 went about explaining?</p> <p>11 A. (Nodding head.)</p> <p>12 Q. Is that a yes?</p> <p>13 A. Yes. Sorry.</p> <p>14 Q. That's quite all right.</p> <p>15 Mr. Resnick, I somehow got an impression</p> <p>16 from your testimony this morning that the recovery</p> <p>17 time was longer during the holiday period than in</p> <p>18 the preholiday period. Is that a correct</p> <p>19 perception?</p> <p>20 A. Yes.</p> <p>21 Q. Is it your recollection that the recovery</p> <p>22 time was within what you see to be a reasonable</p> <p>23 number, 15 minutes plus or minus prior to the</p> <p>24 holiday season but lengthened once a holiday</p> <p>25 season approached?</p>	<p>1 Q. Do you have a recollection within that</p> <p>2 process of Tin -- of being with Tin while he</p> <p>3 explained the compensation system to a prospective</p> <p>4 sales associate?</p> <p>5 A. I do not.</p> <p>6 Q. Do you have a recollection of</p> <p>7 participating in that process with Tin in which</p> <p>8 Tin explained to a sales associate the arrearage</p> <p>9 program?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you have a recollection of within that</p> <p>12 hiring process either you or Tin explaining to a</p> <p>13 prospective sales associate the reconciliation</p> <p>14 process that Mr. Kitchin pointed out in the sales</p> <p>15 associate compensation handbook?</p> <p>16 A. No.</p> <p>17 Q. Mr. Resnick, if I understood your</p> <p>18 testimony from this morning, I don't mean this to</p> <p>19 be impolite, but I got the impression that you</p> <p>20 were not comfortable doing the computer shutdown</p> <p>21 system at the end of the day.</p> <p>22 A. I wasn't.</p> <p>23 Q. And so you were more comfortable having</p> <p>24 someone else do that process while you did the</p> <p>25 recovery.</p>
Page 110	Page 112
<p>1 A. My recollection is more like when I first</p> <p>2 came a lot of time was being spent after store</p> <p>3 hours for recovery or merchandising. Then it</p> <p>4 seemed to taper off into a more normal or more</p> <p>5 palatable time frame.</p> <p>6 Q. Palatable. 15 minutes plus or minus.</p> <p>7 A. Yes, right. 15 minutes, yes.</p> <p>8 And then of course as the holiday season</p> <p>9 approached and even through the sale period, which</p> <p>10 was even worse than the holiday period, it became</p> <p>11 excessive amounts of time were being spent just to</p> <p>12 recover the floor, put it back together in a</p> <p>13 suitable appearance for business the next day.</p> <p>14 Polo has very high standards, and that's</p> <p>15 fine. I have no issue with that. It's just a</p> <p>16 case of how you get there.</p> <p>17 Q. And if I understand correctly, you felt</p> <p>18 Tin not only had Polo standards but higher than</p> <p>19 Polo standards at times.</p> <p>20 A. If that's possible, yes.</p> <p>21 Q. During the -- while you were a manager in</p> <p>22 the San Francisco store, did you ever participate</p> <p>23 with Tin in the hiring process for sales</p> <p>24 associates?</p> <p>25 A. I believe I did, yes.</p>	<p>1 A. That's true.</p> <p>2 Q. And so your discomfort with it was</p> <p>3 emanating from what?</p> <p>4 A. Not that I'm terribly computer literate</p> <p>5 now, but I was even less four years ago, and the</p> <p>6 process was demonstrated to me rather quickly, and</p> <p>7 it was assumed that I knew it and was comfortable</p> <p>8 with it, and I wasn't, and I never developed the</p> <p>9 skill and the comfort level with it that allowed</p> <p>10 me to go to it, sit down and get through it in a,</p> <p>11 you know, in a stress-free and quick and efficient</p> <p>12 way, so I was perfectly happy if some other</p> <p>13 manager wanted to do it.</p> <p>14 Q. And so just as a macro overview, was each</p> <p>15 department shut down in some sort of order? Did</p> <p>16 home collection shut that down? Did women's shut</p> <p>17 that down? Did men's sport and men's clothing</p> <p>18 shut that down? Were they all shut down at one</p> <p>19 time or do you know?</p> <p>20 A. I don't remember. But I think, I think</p> <p>21 that's true that they shut the departments down</p> <p>22 and then the whole store, but once the process was</p> <p>23 started you didn't stop partway and say "Well,</p> <p>24 men's isn't ready yet."</p> <p>25 Q. Okay. You indicated that in response to a</p>
Page 111	Page 113

29 (Pages 110 to 113)

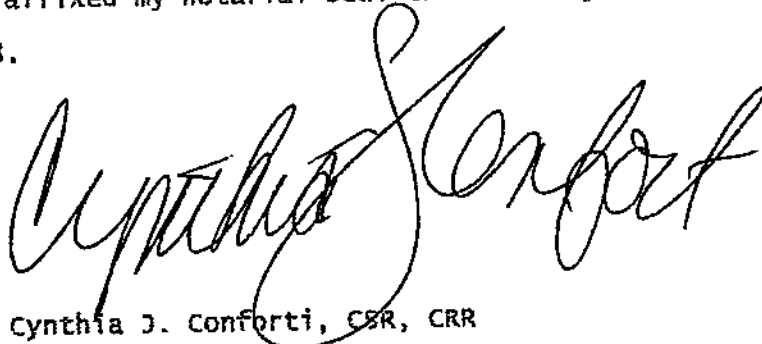
certcert

1 I further certify that the signature to the  
2 foregoing deposition was not waived by counsel for  
3 the respective parties.

4 I further certify that the taking of this  
5 deposition was pursuant to subpoena, and that  
6 there were present at the deposition the attorneys  
7 hereinbefore mentioned.

8 I further certify that I am not counsel for  
9 nor in any way related to the parties to this  
10 suit, nor am I in any way interested in the  
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my  
13 hand and affixed my notarial seal this 7th day of  
14 May, 2008.

15  
16  
17  
18  
19 

Cynthia J. Conforti, CSR, CRR

20 Notary Public, Cook County, Illinois

21  
22 CSR License No. 084-003064

23  
24  
25



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---

EXHIBIT 106.

**Golden Gate Reporting**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION  
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI  
6 KEEFE, an individual; CORINNE  
7 PHIPPS, an individual; and  
8 JUSTIN KISER, an individual;  
9 individually and on behalf of  
10 all others similarly situated,  
11 Plaintiffs,  
12 vs.

13 POLO RALPH LAUREN CORPORATION;  
14 a Delaware Corporation; POLO  
15 RETAIL, LLC, a Delaware Corporation;  
16 POLO RALPH LAUREN CORPORATION, a  
17 Delaware Corporation, doing business  
18 in California as POLO RETAIL CORP;  
19 FASHIONS OUTLET OF AMERICA, INC., a  
20 Delaware Corporation and DOES 1-500,  
21 inclusive,  
22 Defendants.

/

23 DEPOSITION OF KIM LEE BABKA

24 DATE: March 7, 2008  
25 TIME: 10:03 a.m.  
26 LOCATION: Greenberg Traurig  
27 1900 University Avenue  
28 Fifth Floor  
29 East Palo Alto, California  
30 REPORTED BY: Mary E. Garland  
31 Certified Shorthand Reporter  
32 License Number 4721

Page 1

1 show all sales associates who were on the plan, whether  
 2 Comp Plan A or Comp Plan B, for a specific pay period?  
 3 A. Yes. It wouldn't matter if A or B.  
 4 Q. Do you know where that document originated?  
 5 A. Evan Cohen or compensation.  
 6 Q. I'm going to show you what we previously marked  
 7 as Exhibit 9, this document which begins POLO 877, "Code  
 8 of Conduct - July 2004."  
 9 Are you familiar with this document?  
 10 A. Yes.  
 11 Q. And was this distributed to sales associates?  
 12 A. Yes, as I recall.  
 13 Q. Was there a sign-off sheet or acknowledgment  
 14 for this specific code of conduct form?  
 15 A. I recall that there was, yes.  
 16 Q. Do you know what happens with the  
 17 acknowledgements after they're signed by employees?  
 18 A. Well, the expectation is that it would go into  
 19 the employee's file.  
 20 Q. And was the "Code of Conduct - July 2004" meant  
 21 to be applied consistently across the full-price stores  
 22 in California?  
 23 A. Well, again, as consistently as possible. I  
 24 think there have been exceptions.  
 25 Q. Do you specifically recall any exceptions to

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1 the policies set out in the code of conduct in July of  
 2 '04?  
 3 A. I think on charge sends and transfers, not a  
 4 general manager approving it; maybe a manager that  
 5 approved. I think it's, you know, certainly something  
 6 that everyone, you know, worked toward complying with.  
 7 Q. Let me show what you we previously marked as  
 8 Exhibit 63. It's Bates number 607, "PRC Associate Guide  
 9 to Performance Improvement."  
 10 Was this a document that was, at least, meant  
 11 to be handed out to all sales associates working at the  
 12 time this document was prepared?  
 13 A. Again, this looks like part of a PowerPoint  
 14 training module versus a handout, but I can't be  
 15 certain.  
 16 Q. Were sales associates required to view or  
 17 participate in a PowerPoint presentation describing the  
 18 performance improvement guidelines?  
 19 A. I believe there was a meeting around  
 20 performance improvement, but I can't tell you if it was  
 21 PowerPoint or how it was rolled out.  
 22 Q. And was that a series of meetings that were  
 23 meant to take place in all the different stores under  
 24 your jurisdiction?  
 25 A. I think there was a form of. There was a

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1 trainer, Tim Tattersall, at the time who was rolling  
 2 this out and pulling GMs together, I think to take it  
 3 back to their stores, sort of a train the trainer.  
 4 Q. Is Tim Tattersall still employed by Polo?  
 5 A. No.  
 6 Q. What was his position?  
 7 A. He was a trainer.  
 8 Q. Was he based in California?  
 9 A. New York.  
 10 Q. Do you know where he's working now?  
 11 A. He's in Hawaii.  
 12 Q. Do you know which island?  
 13 A. I'd be guessing, but I think Maui. You know, I  
 14 don't know.  
 15 Q. Do you know who he's working for now?  
 16 A. I don't.  
 17 Q. And he had some involvement in training  
 18 managers to roll out the performance improvement  
 19 coaching plan?  
 20 A. He was a writer, so he developed materials; and  
 21 he would also go on the road from time to time.  
 22 Q. Did you ever attend one of the meetings in  
 23 California where he made presentations regarding  
 24 performance improvement coaching?  
 25 A. Yes.

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1 Q. Was that approximately the 2004 time frame?  
 2 A. I can't remember the year.  
 3 Q. Was it at about the same time that the Arrears  
 4 program was rolled out?  
 5 A. It seems it was at least a couple of years ago,  
 6 and I'm -- perhaps.  
 7 Q. I'm going to show you what we previously marked  
 8 as Exhibit 12, "FY2006 Comp Plan B Addendum."  
 9 Comp Plan B included those individuals who had  
 10 been hired after a certain period of time; correct?  
 11 A. Correct.  
 12 Q. Are you familiar with this document that's  
 13 POLO 432 and 433?  
 14 A. I believe so.  
 15 Q. Do you know whether or not this specific  
 16 document was handed out to sales associates?  
 17 A. I don't know that it was handed out to the  
 18 associates.  
 19 Q. Do you know whether this document was meant for  
 20 review by management-level people only?  
 21 A. I can't say only, but I do know management  
 22 level. And, again, I don't recall how it was rolled out  
 23 to the store teams.  
 24 Q. Are you aware of any document that was provided  
 25 to sales associates who were hired after the effective

Page 89

23 (Pages 86 to 89)

<p>1 date of the Arrears program that described how future 2 commissions might be affected by Arrears? 3 A. I don't recall a written documentation. I do 4 know that, again, at offer, that was an expectation of 5 -- one understanding of how they were paid. 6 MR. KITCHIN: Go off the record just a second. 7 (Off the record briefly.) 8 Q. BY MR. KITCHIN: I'm going to show you what we 9 previously marked as Exhibit 15. It has the title "PRC 10 Sales Associate Performance Improvement Coaching." It's 11 Bates number 444 through 447. 12 Are you familiar with this document? 13 A. Yes, I've seen this. 14 Q. And was this document provided to sales 15 associates in California, to your knowledge? 16 A. I believe it was. 17 Q. There's a reference on the first page under 18 "Criteria," and throughout that refers -- strike that. 19 What makes you believe that this was handed out 20 to sales associates? 21 A. Well, maybe I can't say in all certainty. I 22 just recall the "If you hit it, you get it," being very 23 specific. 24 Q. Do you know the context of when you believe 25 this was handed out to sales associates?</p> <p style="text-align: right;">Page 90</p>	<p>1 Did you receive a copy of this e-mail? 2 A. It appears I did. 3 Q. And do you recall this e-mail, now that you 4 look at it? 5 A. Maybe not specifically, but I'm sure I got it. 6 Q. In the text of the message, it says "Many 7 thanks to you all for your participation the past few 8 days." Did you attend a meeting sometime in about April 9 or May 2004 in which new materials were rolled out? 10 A. This is the meeting I was referring to earlier. 11 Q. Under the second bullet point, where it says 12 "Attached is," it says "Special FY05 Addendum." 13 Do you see that? 14 A. Yes. 15 Q. It reads, "This contains the detail around 16 arrears which we pulled out of the handbook and is now a 17 separate attachment." 18 Do you recall any discussions of including or 19 not including discussions of arrears in the handbook 20 that was rolled out about this time? 21 A. I don't. 22 Q. The text of the message, the last sentence 23 says, "Please, replace your documents with the ones 24 attached below," then it has a number of documents. 25 Were any of these documents, to your knowledge,</p> <p style="text-align: right;">Page 92</p>
<p>1 A. I don't. 2 Q. On Bates page 446, there's the subheading 3 "Process." Do you see that? 4 A. Yes. 5 Q. The second bullet point begins: 6 "Store operations will send out biweekly 7 performance reporting to all stores and will track sales 8 associate performance." 9 A. Yes. 10 Q. To your knowledge, is the reference to this 11 reporting the document you described earlier as data 12 that you received on perhaps a biweekly basis? 13 A. Yes. A performance management document. 14 Q. And do you maintain a separate file with all of 15 the performance evaluation reports that you receive over 16 some period of time? 17 A. No. I don't print them and keep them, no. 18 Q. Do you typically review them on the computer in 19 electronic form? 20 A. Correct. 21 Q. Let me show you a document we've previously 22 marked as Exhibit 7. This is an e-mail originally from 23 Lara Moldawsky to Kristi Mogel, and then it looks like 24 it was passed on to a number of individuals. Your name 25 appears in the second batch of "To" individuals.</p> <p style="text-align: right;">Page 91</p>	<p>1 designed and meant to be provided to sales associates? 2 A. What was the question, again? 3 Q. Yes. I'm wondering if you know whether any of 4 the documents listed in the bullet points were meant to 5 be handed out to sales associates in California? 6 A. I don't recall all of the pieces. It does say 7 here, "It is discussed in #2 of Talking Points C as a 8 document you can provide to your sales associates." So 9 there must have been. I'm not sure what that document 10 was. 11 Q. The first bullet point refers to "A revised 12 copy of the Sales Associate Compensation handbook." It 13 indicates, "This is a handbook that applies to all 14 associates, existing or new;" and then it later talks 15 about "The handbook will be posted on the web." 16 The handbook that came out in about April or 17 May of 2004, was that handbook, to your knowledge, meant 18 to be handed out to all sales associates, whether they 19 predated the Arrears program or postdated the Arrears 20 program? 21 A. I don't recall the distribution. I do recall 22 it was going to be on the retail web, and, therefore, 23 available to almost anyone who can access the retail 24 web. 25 Q. I'm going to show you a document that is</p> <p style="text-align: right;">Page 93</p>

## 1 CERTIFICATION OF DEPOSITION OFFICER

2  
3 I, MARY E. GARLAND, duly authorized to administer  
4 oaths pursuant to Section 2093(b) of the California Code  
5 of Civil Procedure, do hereby certify that the witness  
6 in the foregoing deposition was duly sworn by me to  
7 testify to the truth, the whole truth and nothing but  
8 the truth in the within-entitled cause; that said  
9 deposition was taken at the time and place therein  
10 stated; that the testimony of said witness was  
11 thereafter transcribed by means of computer-aided  
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and  
14 that the witness was given an opportunity to read and  
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or  
17 attorney for either or any of the parties in the  
18 foregoing deposition and caption named, nor in any way  
19 interested in the outcome of the cause named in said  
20 caption.

21 Executed March 19, 2008, at San Francisco,  
22 California.

23  
24   
25 MARY E. GARLAND, CSR 4721

---

**EXHIBIT 107.**



Arrears Tracking Sheet														
April 2004 - December 2004														
STORE	HIRE DATE	TERM DATE	EMPLOYEE NAME	Arrears?	April	May	June	July	August	September	October	November	December	Total Deducted
00802	7/26/2004	12/2/2004	Employee #1	Yes										\$0.00
00802	4/12/2004	7/26/2004	Employee #2	No										\$0.00
00802	8/30/2004	3/23/2005	Employee #3	Yes									-213.08	-\$213.08
00802	7/21/2004	4/30/2005	Employee #4	Yes							-204.02	-119.38	-522.61	-\$846.01
00802	5/12/2004	12/24/2004	Howay, Janis	Yes						-\$247.93			-107.53	-\$355.46
00802	20041026	20060708	Employee #5	No										\$0.00
00802	7/11/2004	8/5/2005	Kiser, Justin	Yes							-\$57.66	-\$57.66		-\$115.32
00802	6/11/2004	7/23/2004	Employee #6	No										\$0.00
00802	6/28/2004	6/28/2004	Employee #7	No										\$0.00
00802	6/23/2004	10/20/2004	Mullen, Corinne	Yes										\$0.00
00802	6/19/2004	12/30/2006	Employee #8	Yes									-2.83	-\$2.83
00802	6/22/2004	1/4/2005	Employee #9	Yes								-\$147.38	-539.58	-\$686.96
00802	7/19/2004	7/20/2004	Employee #10	No										\$0.00
00802	5/28/2004	7/23/2004	Employee #11	No										\$0.00
00802	10/18/2004	11/29/2004	Employee #12	No										\$0.00
00802	12/9/2004	5/21/2005	Employee #13	No										\$0.00

Arrars Tracking Sheet																	
January 2005 - December 2005																	
STORE	HIRE DATE	TERM DATE	EMPLOYEE NAME	Arrars?	January	February	March	April	May	June	July	August	September	October	November	December	Total Deducted
00802	20050106	20050405	Employee #14	Yes													\$0.00
00802	20051020	20060208	Employee #15	No													\$0.00
00802	20051117	20051231	Employee #16	No													\$0.00
00802	20040830	20050323	Employee #3	Yes													\$0.00
00802	20040721	20050430	Employee #4	Yes													\$0.00
00802	20041026	20060708	Employee #5	Yes													\$0.00
00802	20040711	20050805	Klear, Justin	Yes								\$498.80	\$498.80				\$997.60
00802	20040611	20040723	Employee #6	No													\$0.00
00802	20050705	20050710	Employee #17	No													\$0.00
00802	20060220	20061010	Employee #18	No													\$0.00
00802	20050709	20050819	Employee #19	No													\$0.00
00802	20050321	20050730	Employee #20	No													\$0.00
00802	20040619	20061230	Employee #8	Yes													\$0.00
00802	20040622	20050104	Employee #9	No													\$0.00
00802	20050526	20051014	Employee #21	Yes													\$0.00
00802	20041209	20050521	Employee #13	Yes													\$0.00
00802	20060802	20070317	Employee #22	No													\$0.00
00802	20050313	20050316	Employee #23	No													\$0.00
00802	20050109	20060301	Employee #24	Yes													\$0.00
00802	20051009	20060128	Employee #25	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00
00802	20050919	20051231	Employee #26	No													\$0.00

Arrears Tracking Sheet										
January 2006 - April 2006										
STORE	HIRE DATE	TERM DATE	EMPLOYEE NAME	Arrears?	January	February	March	April	Total Deducted	
00802	20051020	20060209	Employee #15	No					\$0.00	
00802	20041026	20060708	Employee #5	Yes	-\$195.39				-\$195.39	
00802	20060220	20061010	Employee #18	No					\$0.00	
00802	20040619	20061230	Employee #8	No					\$0.00	
00802	20060802	20070317	Employee #22	No					\$0.00	
00802	20050109	20060301	Employee #24	No					\$0.00	
00802	20051009	20060128	Employee #25	No					\$0.00	

Arrears Tracking Sheet															
April 2004-December 2004															
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	April	May	June	July	August	September	October	November	December	Total Deducted	
00810	Employee #1	20050908	20060318											\$0.00	
00810	Employee #2	20050621	20050721											\$0.00	
00810	Employee #3	20041018	20060430	Yes										\$0.00	
00810	Employee #4	20041116	20050204											\$0.00	
00810	Employee #5	20050414	20050414											\$0.00	
00810	Employee #6	20050623	20051209											\$0.00	
00810	Employee #7	20041126	20041223											\$0.00	
00810	Employee #8	20050602	20050909											\$0.00	
00810	Employee #9	20051017	20060409											\$0.00	
00810	Employee #10	20050812	20051117											\$0.00	
00810	Employee #11	20050912	20051224											\$0.00	
00810	Employee #12	20041202	20050822											\$0.00	
00810	Employee #13	20050314	20050616											\$0.00	
00810	Employee #14	20050304	20060304											\$0.00	
00810	Employee #15	20041122	20050111											\$0.00	
00810	Employee #16	20040711	20041224	Yes										\$0.00	
00810	Employee #17	20050301	20070210											\$0.00	
00810	Employee #18	20040701	20040828											\$0.00	
00810	Employee #19	20051028	20051223											\$0.00	
00810	Employee #20	20050125	20050503											\$0.00	
00810	Employee #21	20050608	20050815											\$0.00	
00810	Employee #22	20060112	20060426											\$0.00	
00810	Employee #23	20050103	20050304											\$0.00	
00810	Employee #24	20040428	20040624											\$0.00	
00810	Employee #25	20061020	20061215											\$0.00	
00810	Employee #26	20040621	20040820											\$0.00	
00810	Employee #27	20050425	20060303											\$0.00	
00810	Employee #28	20050104	20050528											\$0.00	
00810	Employee #29	20050804	20051231											\$0.00	
00810	Employee #30	20050926	20060609											\$0.00	
00810	Employee #31	20050627	20050801											\$0.00	
00810	Employee #32	20051202	20070129											\$0.00	
00810	Employee #33	20051221	20060916											\$0.00	
00810	Employee #34	20041129	20050510											\$0.00	
00810	Employee #35	20050812	20050815											\$0.00	
00810	Otsuka, Ann	20040519	20041029	Yes										\$0.00	
00810	Employee #36	20060102	20060305											\$0.00	
00810	Employee #37	20050328	20050328											\$0.00	
00810	Employee #38	20050221	20050623											\$0.00	
00810	Employee #39	20041212	20050111											\$0.00	
														\$0.00	
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Amara Trading Sheet																	
January 2005-December 2005																	
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Amara?	January	February	March	April	May	June	July	August	September	October	November	December	Total Deducted
00810	Employee #1	20050908	20060318	No													\$0.00
00810	Employee #3	20041018	20060430	Yes			-\$160.79	-\$485.57			-\$31.32						-\$487.68
00810	Employee #5	20050414	20050414	No													\$0.00
00810	Employee #6	20051209	20051209	No													\$0.00
00810	Employee #8	20050822	20050908	Yes								-\$54.58					-\$54.58
00810	Employee #9	20051017	20060409	No													\$0.00
00810	Employee #10	20050812	20051117	No													\$0.00
00810	Employee #11	20050812	20051224	No													\$0.00
00810	Employee #12	20041202	20050822	Yes			-\$35.72				-\$11.22						\$0.00
00810	Employee #13	20050314	20050818	No													\$0.00
00810	Employee #14	20050304	20060304	Yes													\$0.00
00810	Employee #15	20041122	20050111	No					-\$71.13		-\$73.62		-\$72.79	-\$88.78	-\$3.83		\$0.00
00810	Employee #17	20050301	20070210	Yes				-\$150.70		-\$32.25	-\$245.53	-\$102.73					\$0.00
00810	Employee #19	20051028	20051228	No													\$0.00
00810	Employee #20	20050123	20050503	Yes													\$0.00
00810	Employee #21	20050608	20050815	No													\$0.00
00810	Employee #22	20060112	20060428	No													\$0.00
00810	Employee #23	20050103	20050304	No													\$0.00
00810	Employee #25	20061020	20061215	No													\$0.00
00810	Employee #27	20050423	20060303	Yes							-\$25.49	-\$291.82					\$0.00
00810	Employee #28	20050104	20050528	Yes												-\$555.86	\$0.00
00810	Employee #29	20050804	20051231	Yes													\$0.00
00810	Employee #30	20050928	20060809	No													\$0.00
00810	Employee #31	20050927	20050801	No													\$0.00
00810	Employee #32	20051202	20070129	No													\$0.00
00810	Employee #33	20051221	20060918	No													\$0.00
00810	Employee #34	20041129	20050510	Yes													\$0.00
00810	Employee #35	20050812	20050815	No													\$0.00
00810	Employee #36	20060102	20060305	No													\$0.00
00810	Employee #37	20060328	20060328	No													\$0.00
00810	Employee #38	20060221	20060823	Yes													\$0.00
00810	Employee #39	20041212	20050111	No													\$0.00
00810	Employee #40	20041201	20060709	No													\$0.00
00810	Employee #41	20050906	20050907	No													\$0.00
00810	Employee #42	20060104	20060331	Yes													\$0.00
00810	Employee #43	20060113	20060803	No													\$0.00
00810	Employee #45	20050714	20070210	No													\$0.00
00810	Employee #46	20060116	20070210	No													\$0.00
00810	Employee #47	20040813	20051228	Yes													\$0.00
00810	Employee #48	20051128	20070210	No													\$0.00
00810	Employee #49	20041011	20050331	Yes													\$0.00
00810	Employee #50	20050814	20050513	No													\$0.00
00810	Employee #51	20051010	20060718	No													\$0.00
00810	Employee #52	20041016	20050608	Yes													\$0.00
00810	Employee #54	20051222	20051222	No													\$0.00
00810	Employee #55	20050809	20060728	No													\$0.00
																	\$0.00
																	\$0.00
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Arrears Tracking Sheet										
January 2006-April 2006										
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	Total Deducted	
00810	Employee #1	20050906	20060318	No					\$0.00	
00810	Employee #3	20041018	20060430	No					\$0.00	
00810	Employee #9	20051017	20060409	No					\$0.00	
00810	Employee #14	20050304	20060304	Yes		-\$114.34			-\$114.34	
00810	Employee #17	20050301	20070210	No					\$0.00	
00810	Employee #22	20060112	20060426	No					\$0.00	
00810	Employee #25	20061020	20061215	No					\$0.00	
00810	Employee #27	20050425	20060303	Yes	-\$793.77				-\$793.77	
00810	Employee #30	20050926	20060609	No					\$0.00	
00810	Employee #32	20051202	20070129	No					\$0.00	
00810	Employee #33	20051221	20060916	No					\$0.00	
00810	Employee #36	20060102	20060305	No					\$0.00	
00810	Employee #37	20050328	20050328	No					\$0.00	
00810	Employee #40	20041201	20060709	No					\$0.00	
00810	Employee #43	20060113	20060603	No					\$0.00	
00810	Employee #45	20050714	20070210	No					\$0.00	
00810	Employee #46	20060116	20070210	No					\$0.00	
00810	Employee #48	20051126	20070210	No					\$0.00	
00810	Employee #51	20051010	20060718	No					\$0.00	

Arrears Tracking Sheet														
April 2004 - December 2004														
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	April	May	June	July	August	September	October	November	December	Total Deducted
00817	Employee #1	20041103	20050423	No										\$0.00
00817	Employee #2	20040925	20050220	Yes									-\$239.55	-\$239.55
00817	Employee #3	20040717	20050710	No										\$0.00
00817	Employee #4	20041124	20050114	No										\$0.00
00817	Employee #5	20040703	20040917	Yes										\$0.00
00817	Employee #6	20040831	20050213	Yes								-\$621.82	-\$140.62	-\$762.44

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Arrears Tracking Sheet																	
January 2005-December 2005																	
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	May	June	July	August	September	October	November	December	Total Deducted
00817	Employee #7	20050316	20050523	No													\$0.00
00817	Employee #8	20050816	20051116	No													\$0.00
00817	Employee #1	20041103	20050423	Yes		-\$704.66											-\$704.66
00817	Employee #2	20040925	20050220	Yes													\$0.00
00817	Employee #3	20040717	20050710	No													\$0.00
00817	Employee #4	20041124	20050114	No													\$0.00
00817	Employee #9	20050223	20051120	Yes													\$0.00
00817	Employee #10	20051204	20060506	No													-\$221.88
00817	Employee #11	20051218	20060618	No													\$0.00
00817	Employee #6	20040831	20050213	Yes													\$0.00
00817	Employee #12	20050223	20050827	No													\$0.00

Arrears Tracking Sheet										
January 2006-April 2006										
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	Total Deducted	
00817	Employee #10	20051204	20060506	No					\$0.00	
00817	Employee #11	20051218	20060618	No					\$0.00	

Awards Tracking Sheet																	
January 2005 - December 2005																	
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Awards?	January	February	March	April	May	June	July	August	September	October	November	December	Total Deducted
00831	Employee #12	20050620	20051111	No													\$0.00
00831	Employee #1	20041014	20051231	No													\$0.00
00831	Employee #2	20040601	20050518	Yes	-\$32.89		-\$822.46	-\$213.00									-\$1,068.35
00831	Employee #3	20041020	20050422	Yes	-\$94.43		-\$45.85										-\$130.28
00831	Employee #13	20050227	20050723	No													\$0.00
00831	Employee #14	20050806	20060113	No													\$0.00
00831	Employee #4	20040826	20050319	Yes	-\$58.05												\$0.00
00831	Employee #15	20050630	20050802	No													-\$58.05
00831	Employee #5	20040816	20050528	Yes			-\$220.32	-\$142.35	-\$105.56								\$0.00
00831	Employee #16	20050102	20050302	Yes													\$0.00
00831	Employee #17	20050316	20050521	No													\$0.00
00831	Employee #18	20050906	20051206	No													\$0.00
00831	Employee #19	20051019	20060701	No													\$0.00
00831	Employee #6	20040915	20050604	Yes		-\$119.54		-\$122.16	-\$185.51								\$0.00
00831	Employee #20	20040630	20060525	No													\$0.00
00831	Employee #21	20051202	20060114	No													\$0.00
00831	Employee #22	20050413	20050429	No													\$0.00
00831	Employee #9	20041111	20050712	No													\$0.00
00831	Employee #10	20041114	20050108	No													\$0.00
00831	Employee #11	20040922	20050507	Yes			-\$6.33	-\$89.94									-\$96.27

Arrears Tracking Sheet													
April 2004 - December 2004													
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	April	May	June	July	August	September	October	November	December
00831	Employee #1	20041014	20051231	No									Total Deducted
00831	Employee #2	20040601	20050518	No									\$0.00
00831	Employee #3	20041020	20050422	No									\$0.00
00831	Employee #4	20040526	20050318	Yes					-\$217.20	-\$217.20			-\$434.40
00831	Employee #5	20040816	20050528	No									\$0.00
00831	Employee #6	20040915	20050604	Yes								-\$148.13	-\$148.13
00831	Employee #7	20040630	20060525	No									\$0.00
00831	Employee #8	20041120	20041130	No									\$0.00
00831	Employee #9	20041111	20050712	No									\$0.00
00831	Employee #10	20041114	20050108	No									\$0.00
00831	Employee #11	20040922	20050507	No									\$0.00



Arrears Tracking Sheet										
January 2006 - April 2006										
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	Total Deducted	
00831	Employee #14	20050906	20060113	No					\$0.00	
00831	Employee #19	20051019	20060701	Yes	-\$36.93		-\$110.38		-\$147.31	
00831	Employee #20	20040630	20060525	Yes					\$0.00	
00831	Employee #21	20051202	20060114	No					\$0.00	

Arrears Tracking Sheet														
April 2004 - December 2004														
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	April	May	June	July	August	September	October	November	December	Total Deducted
00836	Employee #1	20040527	20040604	No										\$0.00
00836	Employee #2	20040723	20040830	No										\$0.00
00836	Employee #3	20041220	20050121	No										\$0.00
00836	Employee #4	20041122	20051213	No										\$0.00

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Arrears Tracking Sheet																	
January 2005 - December 2005																	
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	May	June	July	August	September	October	November	December	Total Deducted
00836	Employee #5	20050412	20051023	No													\$0.00
00836	Employee #6	20051003	20060130	No													\$0.00
00836	Employee #7	20060203	20060512	No													\$0.00
00836	Employee #8	20051010	20051011	No													\$0.00
00836	Employee #9	20060424	20061012	No													\$0.00
00836	Employee #3	20041220	20050121	No													\$0.00
00836	Employee #4	20041122	20051213	Yes					-\$58.03	-\$381.50	-\$394.23	-\$291.83			-\$711.95		-\$2,447.54
00836	Employee #10	20051003	20060326	No													\$0.00
00836	Employee #11	20050416	20050730	No													\$0.00

POLO02526-A  
CONFIDENTIAL

Arrears Tracking Sheet										
January 2006 - April 2006										
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	Total Deducted	
00836	Employee #6	20051003	20060130	No					\$0.00	
00836	Employee #7	20060203	20060512	No					\$0.00	
00836	Employee #9	20060424	20061012	No					\$0.00	
00836	Employee #10	20051003	20060326	No					\$0.00	

Arrears Tracking Sheet														
April 2004 - December 2004														
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	April	May	June	July	August	September	October	November	December	Total Deducted
00845/00873	Employee #1	20041027	20050402	No										\$0.00
00845/00873	Employee #2	20040908	20050203	No										\$0.00
00845/00873	Employee #3	20040908	20050204	No										\$0.00
00845/00873	Employee #4	20040908	20050623	No										\$0.00
00845/00873	Employee #5	20040422	20050110	No										\$0.00

POLO02528-A  
CONFIDENTIAL

Aarsana Tracking Sheet																	
January 2005 - December 2005																	
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Aarsana?	January	February	March	April	May	June	July	August	September	October	November	December	Total Deducted
00873	Employee #6	20050212	20050501	Yes				\$82.42									\$82.42
00873	Employee #7	20050627	20051119	Yes													\$111.27
00873	Employee #8	20050328	20050730	No													\$0.00
00873	Employee #1	20041027	20050402	Yes													\$232.43
00873	Employee #2	20040908	20060203	No													\$0.00
00873	Employee #3	20040908	20050204	Yes													\$0.00
00873	Employee #9	20041026	20060708	Yes													\$940.40
00873	Employee #4	20040908	20050623	No													\$0.00
00873	Employee #10	20051024	20060518	No													\$0.00
00873	Employee #11	20050515	20060428	Yes													\$13.56
00873	Employee #12	20051125	20051223	No													\$0.00
00873	Employee #13	20051024	20060106	No													\$0.00
00873	Employee #14	20050216	20050813	Yes													\$614.55
00873	Employee #15	20050127	20050517	Yes													\$135.11
00873	Employee #5	20040422	20050110	No													\$0.00
00873	Employee #16	20051223	20060115	No													\$0.00



Arrears Tracking Sheet										
January 2006 - April 2006										
STORE	EMPLOYEE NAME	HIRE DATE	TERM DATE	Arrears?	January	February	March	April	Total Deducted	
00873	Employee #2	20040908	20060203	Yes	-\$295.82				-\$295.82	
00873	Employee #10	20051024	20060518	No					\$0.00	
00873	Employee #11	20050515	20060428	No					\$0.00	
00873	Employee #13	20051024	20060106	No					\$0.00	
00873	Employee #16	20051223	20060115	No					\$0.00	

POLO02530-A  
CONFIDENTIAL

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EXHIBIT 108.



1           2) Between approximately August 2005 to August 2006, I worked as a Cashier/Sales  
2 Associate at the Polo Ralph Lauren in Camarillo, California.

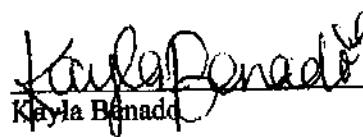
3           3) When I was hired at the Camarillo store, I was told that I could not discuss my  
4 salary with other employees. This was a really big deal in the store, and we had at least one  
5 meeting to emphasize that we could not communicate this information among co-workers.

6           4) I was occasionally unable to take one or more of my rest breaks during my work  
7 shifts. It seemed that managers at the Camarillo store did not want to give them to us; the  
8 managers did not tell me or encourage me to take breaks. I estimate that I missed my rest breaks at  
9 least 20% of the time I was at work, on average, because it was not a priority for management and  
10 because of sales and customer demands. I was not paid for working during these breaks.

11           5) I was instructed by my managers and in the Polo employee handbook that I could  
12 not leave the Polo store at any time unless a manager performed a bag check on me at the  
13 employee exit. I understood that this was a very serious practice and that I was required to submit  
14 to the checks before I could leave the store after the end of my shift.

15           6) After I had clocked out for lunch or at the end of the day, I usually waited near the  
16 door to the store for a manager who could do the bag check and approve me to leave the building.  
17 Often, co-workers waited with me until the manager came to release us. On average, I estimate  
18 that I had to wait 5 to 10 minutes after I had clocked out before I was permitted to leave the  
19 building. I was not paid for any of this waiting time.

20  
21 Signed under penalty of perjury under the laws of the State of California. Executed at Ventura  
22 County, California, on June 5, 2008.

23  
24   
25 Kayla Benado

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EXHIBIT 109.

1 Patrick R. Kitchen, Esq. (SBN. 162965)  
2 **THE LAW OFFICE OF PATRICK R. KITCHIN**  
3 565 Commercial Street, 4<sup>th</sup> Floor  
4 San Francisco, CA 94111  
5 415-677-9058  
6 415-627-9076 (fax)

7 Attorneys for Plaintiffs  
8 Janis Keefe, Corinne Phipps, and  
9 Renee Davis

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 ANN OTSUKA, an individual; JANIS KEEFE, ) Case No.: C-07-02780-SI  
14 an individual; CORINNE PHIPPS, an )  
15 individual; and RENEE DAVIS, an individual; )  
16 individually and on behalf of all others similarly ) **DECLARATION OF SAMIR ABU TAHIR**  
17 situated, ) **IN SUPPORT OF PLAINTIFFS' MOTION**  
18 ) **FOR CLASS CERTIFICATION**

19 Plaintiffs, ) Date: July 11, 2008  
20 vs. ) Time: 9:00 a.m.

21 POLO RALPH LAUREN CORPORATION; a ) LOCATION: Courtroom 10, 19<sup>th</sup> Floor  
22 Delaware Corporation; POLO RETAIL, LLC., ) 450 Golden Gate Avenue  
23 a Delaware Corporation; POLO RALPH ) San Francisco, California 94102  
24 LAUREN CORPORATION, a Delaware )  
25 Corporation, doing business in California as ) JUDGE: Hon. Susan Illston  
26 POLO RETAIL CORP; and FASHIONS )  
27 OUTLET OF AMERICA, INC., )

28 Defendants.

I, Samir Abu Tahir, declare:

1) I am a resident of West Hollywood, California, and make this declaration based on my personal knowledge.



1           2) Between approximately 2001 and November 2007, I worked as a Sales Associate at  
2 the Polo Ralph Lauren store in Beverly Hills, California. From approximately 2001 to 2004, I  
3 worked in the Women's Department, and from approximately 2005 to November 2007, I worked  
4 in the Home Collections Department.

5           3) I was hired as a full-time employee. My base wage was set and was the equivalent  
6 of approximately \$11.00 to \$12.00 per hour. I was told I was a commissioned salesperson and an  
7 "exempt employee."

8           4) Polo set a mandatory sales target for me that required me to sell a certain value of  
9 merchandise per hour that, when multiplied by roughly 8% or 9% (my commission rate, equaled  
10 my hourly rate.) If I failed to consistently sell enough merchandise to cover this hourly rate, I  
11 could be terminated. In fact, I was placed on "probation" for a time for failing to meet my sales  
12 target.

13           5) ~~On most occasions while working in the Women's Department at Polo, I was not~~  
14 able to take one or more of my rest breaks during my shifts. For a while, I attempted to take my  
15 morning rest break, usually to get a cup of coffee before the rest of the employees began leaving  
16 the floor for their lunch breaks. The stated rule at the store was that no one could leave the floor  
17 for any reason if there was insufficient "coverage," or too few staff working the floor. So, often if  
18 a co-worker left for lunch, I was required to stay on the floor, regardless of whether I needed a  
19 bathroom or other break. Under those circumstances, breaks were not possible. Additionally,  
20 managers would literally roll their eyes and make other intimidating gestures or statements to  
21 make it known that it was unacceptable to take breaks. Managers and other staff also made  
22 explicit statements that taking breaks meant you were "lazy." I realized that breaks were not  
23 allowed in the culture and practice of the store. On average, I estimate that I missed almost all my  
24 morning breaks during this time because of "coverage" requirements, the need to sell and serve  
25 customers, and because managers discouraged me and others from taking rest breaks.

1           6) I could not leave the Polo store at any time unless a manager performed a bag check  
2 on me at the employee exit. I understood I could be fired if I did not undergo a bag check before I  
3 left the store.

4           7) I was instructed to clock out, either when leaving for lunch or leaving at the end of  
5 the day, and then find a manager who could perform the bag check at the employee exit. Almost  
6 always, neither managers nor security personnel were readily available to perform the search. On  
7 average, I estimate I had to wait 5 to 10 minutes after I had clocked out before I was permitted to  
8 leave the building. I thought that it was completely unacceptable that I had to wait under these  
9 circumstances and discussed this with several store employees and staff. I was not paid for any of  
10 this waiting time.

11  
12 Signed under penalty of perjury under the laws of the State of California. Executed at West  
13 Hollywood, California, on June 5, 2008.

14  
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16 Samir Abu Tahir  
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**EXHIBIT 110.**

Patrick R. Kitchin, Esq. (SBN. 162965)  
**THE LAW OFFICE OF PATRICK R. KITCHIN**  
 565 Commercial Street, 4<sup>th</sup> Floor  
 San Francisco, CA 94111  
 415-677-9058  
 415-627-9076 (fax)

Attorneys for Plaintiffs  
 Janis Keefe, Corinne Phipps, and  
 Renee Davis

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE, ) Case No.: C-07-02780-SI  
 an individual; CORINNE PHIPPS, an )  
 individual; and RENEE DAVIS, an individual; )

individually and on behalf of all others similarly )  
 situated, )

Plaintiffs,

vs.

POLO RALPH LAUREN CORPORATION; a )  
 Delaware Corporation; POLO RETAIL, LLC., a )  
 Delaware Corporation; POLO RALPH )  
 LAUREN CORPORATION, a Delaware )  
 Corporation, doing business in California as )  
 POLO RETAIL CORP; and FASHIONS )  
 OUTLET OF AMERICA, INC., )

Defendants.

DECLARATION OF AMBERLY AHRING  
 IN SUPPORT OF PLAINTIFFS' MOTION  
 FOR CLASS CERTIFICATION

Date: July 11, 2008  
 Time: 9:00

LOCATION: Courtroom 10, 19<sup>th</sup> Floor  
 450 Golden Gate Avenue  
 San Francisco, California 94102

JUDGE: Hon. Susan Illston

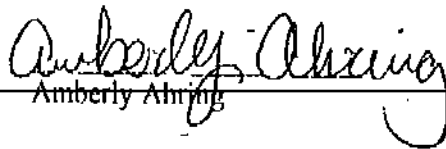
I, Amberly Ahring, declare:

1. I am a resident of San Diego County, California, and make this declaration based on my personal knowledge.
2. From about July 2003 to March 2004, I worked as a Sales Associate in the Polo Ralph Lauren Factory Outlet store in Alpine, California.

- 1 3. At the store, everyone was required to have their things searched by a manager after  
2 clocking out at the end of a shift and before leaving the store. I, too, was searched  
3 after almost every shift, and understood that I could be fired if I did not allow a  
4 search before I left the store. After I clocked out, I was usually required to wait for  
5 about 5 to 10 minutes for a manager to complete a Loss Prevention Search.  
6 4. I was not paid for the time I spent waiting to be searched after clocking out.  
7

8 Signed under penalty of perjury under the laws of the State of California.  
9

10 DATED: May 26, 2008  
11

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13 Amberly Ahning  
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EXHIBIT 111.

Patrick R. Kitchin, Esq. (SBN. 162965)  
**THE LAW OFFICE OF PATRICK R. KITCHIN**  
 565 Commercial Street, 4<sup>th</sup> Floor  
 San Francisco, CA 94111  
 415-677-9058  
 415-627-9076 (fax)

Attorneys for Plaintiffs  
 Janis Keefe, Corinne Phipps, Justin Kiser and  
 Renee Davis

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE, ) Case No.: C-07-02780 SI  
 an individual; CORINNE PHIPPS, an )  
 individual; and JUSTIN KISER, an individual; ) **DECLARATION OF HARVEY RESNICK**  
 individually and on behalf of all others similarly )  
 situated, RENEE DAVIS, an individual; )  
 individually and on behalf of all others similarly )

situated )

Plaintiffs, )

vs. )

POLO RALPH LAUREN CORPORATION; a )  
 Delaware Corporation; POLO RETAIL, LLC., a )  
 Delaware Corporation; POLO RALPH )  
 LAUREN CORPORATION, a Delaware )  
 Corporation, doing business in California as )  
 POLO RETAIL CORP; and FASHIONS )  
 OUTLET OF AMERICA, INC., a Delaware )  
 Corporation )

Defendants. )

**JUDGE: Hon. Susan Illston**  
**LOCATION: Courtroom 10, 19<sup>th</sup> Floor**  
**450 Golden Gate Avenue**  
**San Francisco, California 94102**



1 I, Harvey Resnick, declare:

- 2 1. I was employed by Polo Ralph Lauren Corporation between approximately August  
3 2004 and February 2005, as the Men's Department Manager of the Polo Ralph Lauren  
4 store located at 90 Post Street, San Francisco, California, and make this declaration  
5 based on personal knowledge.
- 6 2. I worked under the direction of the store's general manager, Tin Hua, and my duties  
7 included managing sales associates in the Polo Men's Department, including Justin  
8 Kiser and Janis Howay (Keefe), product sales, associate scheduling, merchandising,  
9 cleaning and re-stocking.
- 10 3. While I was employed as Men's Department Manager at Polo, sales associates were  
11 compensated on what Polo referred to as a "draw versus commission" system. I was  
12 instructed by Tin Hua, and also read in the Polo Ralph Lauren sales associate  
13 handbooks, that sales associates in the store were paid on an hourly basis at \$12.75 per  
14 hour, or 8% of their total sales, which ever was greater. Some sales persons were on a  
15 higher commission rate based on their sales performance.
- 16 4. Sales associates were required to sell a sufficient quantity of Polo merchandise to cover  
17 their base hourly earnings. That is, sales associates were given mandatory sales targets  
18 that represented the minimum sales each was expected to make in a two-week period.  
19 If sales associates regularly failed to sell the quantity of merchandise they were  
20 required to sell, they were subject to discipline and/or termination.
- 21 5. Within approximately one month after I was hired by Polo, I met with Christie Mogel,  
22 Polo's Area Human Resources Manager, and told her I was concerned about the "draw  
23 versus commission" payroll system used by the company. I specifically told Ms.  
24 Mogel that I did not believe sales associates were able to meet the sales targets set by  
25 the company. Concerned about the legality of this payroll system, I asked Ms. Mogel  
26 why sales associates were not paid premium overtime for working more than 8 hours a  
27 day or 40 hours a week. Ms. Mogel told me all sales associates worked on a  
28 commission basis and were not entitled to premium overtime compensation. She also

1 said Polo already paid sales associates premium overtime by paying them \$12.75 per  
2 hour instead of minimum wage.

3 6. On numerous occasions sales associates in the Men's Department worked more than 8  
4 hours per day and/or 40 hours per week. But, in accordance with Polo's payroll policy,  
5 I understood none of them was paid premium wages for the extra time.

6 7. I never heard that Polo was performing an analysis of sales associates' right to receive  
7 premium overtime in California. I also never heard that any sales associate was ever  
8 paid premium overtime compensation. It was my understanding that Polo did not pay  
9 any sales associates premium overtime compensation.

10 8. When I began working for Polo, it was using a wage program it called "arrear." I  
11 recall learning about the arrears program through General Manager Tin Hua,  
12 Operations Manager Theresa Cruz, and/or Polo's internal internet system. Under the  
13 arrears system, if a sales associate failed to meet his or her mandatory sales target in

14 any two-week period, and then later exceeded their sales target, the later-earned  
15 commissions would be debited by the amount they had undersold in the prior pay  
16 periods. In this way, commissions earned in one pay period were decreased by the  
17 arrears amount from previous pay periods.

18 9. In my position as Men's Department Manager, I supervised up to approximately 12  
19 sales associates. Based on my best recollection, I believe only one or two of these sales  
20 associates regularly met and/or exceeded the mandatory sales targets set by the  
21 company. On many occasions, my Department's sales associates did not even sell one  
22 half of their mandatory sales targets.

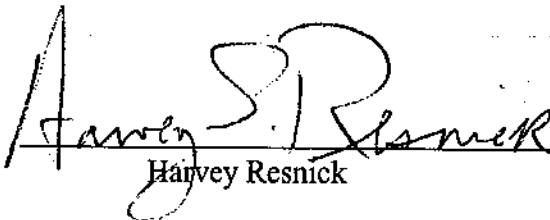
23 10. Sales associates did not always take their rest breaks. On several occasions, I  
24 overheard managers, including Theresa Cruz, tell a sales associate they would not be  
25 able to meet their mandatory sales targets unless they were working on the sales floor  
26 helping customers. Sales associates were under the constant pressure of meeting sales  
27 targets that most of them could not make and, so, I often observed the sales associates  
28 work through the day without taking all of their rest breaks. To the best of my

1 knowledge, Polo never paid any sales associate extra pay for missing a rest break. I  
2 was not aware that employees were entitled to extra pay for missing a rest break and I  
3 never asked payroll to do so.

- 4 11. Sales associates were instructed they could only enter or exit the store through the  
5 employee door, located at the end of a hallway near the managers' offices and loading  
6 dock. Any time sales associates or managers left the store, they were required to  
7 undergo a loss prevention inspection at that door. At the end of their shifts, sales  
8 associates would clock out, unless a manager had clocked them out already, gather their  
9 belongings and then either proceed to the employee door or search for a manager who  
10 could perform the loss prevention inspection. Managers were generally very busy at  
11 the end of the day, performing various duties in their departments or in the manager's  
12 office. On numerous occasions, I heard sales associates page a manager to the back  
13 door at the end of a shift to perform the loss prevention inspection. On many

14 occasions, I went to the employee exit to perform loss prevention inspections and found  
15 sales associates sitting on the floor waiting for a manager. Sales associates regularly  
16 complained to me and other managers about the amount of time they were required to  
17 wait at the exit after their shift was over and they were no longer being paid. I  
18 personally heard sales associates complain they had missed appointments and public  
19 transportation because they had been held in the store for up to 15 minutes after they  
20 had clocked out.

21 I declare under penalty of perjury under the laws of the United States of America that the  
22 foregoing is true and correct, and that this declaration was made March 18, 2008, in  
23 CHICAGO, Illinois.

24   
25  
26 Harvey Resnick  
27  
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**EXHIBIT 112.**

DECLARATION OF STACY SHADE IN SUPPORT OF MOTION FOR CLASS CERTIFICATION

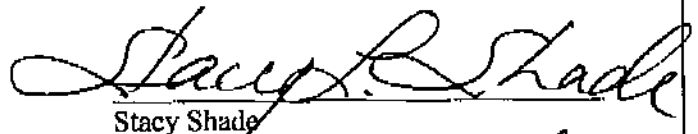
2) In 2003, I worked at the Polo Ralph Lauren Factory Store in Barstow, California.

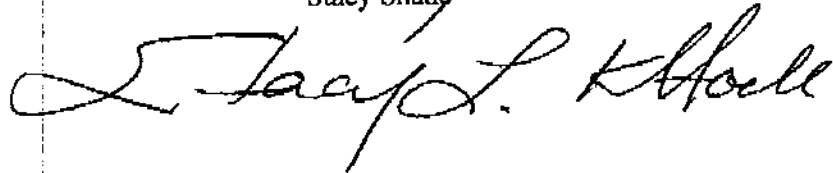
3) When I was hired, I was told that I was not allowed to tell any other employee how much I was earning.

4) Most of the time, I did not get rest breaks during my shift. I was told by management that I had to help customers whenever they needed it, even if I had clocked out for a break. It happened regularly that when I had already clocked, I was then asked by a manager or customer to help while I was on a break. This happened so regularly that it seemed clear that breaks were not really encouraged or allowed.

5) I understood that I was required to participate in "bag checks" or "loss prevention searches" before I could leave the store after the end of my shift. The managers at the store were very strict about this. After we had clocked out, myself and my co-workers were told to "line-up" so that one of the managers could come by and go through our things. On average, I waited about 15 minutes after clocking out to be checked and allowed to leave the store. I estimate that this kind of wait happened at least 50% of the time when I was at work. I was not paid for any of this waiting time.

Signed under penalty of perjury under the laws of the State of California. Executed at Barstow, California, on May 21, 2008.

  
Stacy Shade



I'm married, my married name is Krommenhoek <sup>2</sup>  
Otsuka, et al. v. Polo, et al. Case No. C-07-02780-SI

DECLARATION OF STACY SHADE IN SUPPORT OF MOTION FOR CLASS CERTIFICATION